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RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Report by Mr. Maurice Glèlè-Ahanhanzo, Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, submitted pursuant to Commission on Human Rights resolution 1999/78

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Summary

The Special Rapporteur continued to carry out his mandate by maintaining cooperation with the countries he had visited (South Africa, France, Kuwait) and drawing on the various communications transmitted to him by the Governments of a number of countries (Belarus, Cyprus, Costa Rica, Denmark, Iraq, Finland, Netherlands) and by non-governmental organizations. This report adds further details to the report he submitted to the last session of the General Assembly (A/54/347).

The Special Rapporteur observes that manifestations of racism, racial discrimination and related intolerance are constantly recurring in different regions of the world. In addition to the cases of xenophobia and anti-Semitism, the Special Rapporteur notes that discrimination against the Roma persists in a number of European countries, where they are subjected to exclusion and marginalization. He undertook a mission to the Czech Republic, Romania and Hungary, the report on which can be found in an addendum (E/CN 4/2000/16/Add 1). The Special Rapporteur also demonstrates that discriminatory application of the death penalty still continues in the United States of America.

The report further contains allegations transmitted to the Governments of the following countries: Germany, Canada, France, Spain, United States of America, Russian Federation, India and the Islamic Republic of Iran. With reference to the follow-up to field visits, the report contains information on measures taken by the Governments of South Africa, France and Kuwait.

In his conclusions and recommendations, the Special Rapporteur considers that the Commission on Human Rights, in cooperation with the Governments concerned, should pay particular attention to the Roma in order to secure their integration in the countries where they live; action on their behalf should essentially be based on improving the teaching and vocational training intended for them and on the development of awareness of differences and of tolerance among the majority population groups. As regards the death penalty in the United States, he hopes that the advent of a new era will also provide an opportunity for this great country to envisage criminal sanctions more in accordance with international human rights standards and in keeping with the predominant trend towards abolishing capital punishment. Lastly, the Special Rapporteur suggests that the Commission should continue to give priority to the preparation of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which should give a place of prime importance to education in the rights of the individual and the culture of tolerance, peace and non-violence.

Introduction

1. This report has been submitted in accordance with resolution 1999/78 (III) adopted by the Commission on Human Rights at its fifty-fifth session. It should be read in conjunction with the report submitted by the Special Rapporteur to the fifty-fourth session of the General Assembly (A/54/347).

2. The present report, which comprises six chapters, contains information on the activities of the Special Rapporteur in 1999 (chap. I) and measures taken by Governments following a field visit or on their own initiative (chaps. II and V). Attention is drawn to the most significant racist acts and the discriminatory practices of 1999 (chap. III). The Special Rapporteur also discusses the allegations he has received and transmitted to the Governments concerned (chap. IV) and lastly lists his conclusions and recommendations (chap. VI).

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

A. Field visits

1. Mission to Hungary, the Czech Republic and Romania

3. The Special Rapporteur visited Hungary, the Czech Republic and Romania from 20 to 30 September to investigate the situation of the Roma in those countries. His findings are contained in document E/CN.4/2000/16/Add.1.

B. Missions under consideration by the Special Rapporteur

4. During the year 2000, in order to amplify his analysis of the situation in different parts of the world and consider, along with the parties concerned, the allegations brought to his attention, the Special Rapporteur intends to visit Australia, Peru and possibly India.

II. REPLIES OF GOVERNMENTS TO THE SPECIAL RAPPORTEUR'S REQUESTS FOR INFORMATION

5. In accordance with paragraph 28 of resolution 1999/78, the Special Rapporteur addressed a circular letter on 17 May 1999 to Governments, organizations of the United Nations system and non-governmental organizations. This chapter includes the main points of the replies relating specifically to the Special Rapporteur's mandate which were received from the Governments of Belarus, Cyprus, Costa Rica, Indonesia and Iraq. The Special Rapporteur has also received from the Governments of Denmark, Finland and the Netherlands copies of periodic reports recently submitted to the Committee on the Elimination of Racial Discrimination; these reports contain useful information on the various measures taken in these three countries and may be consulted under the symbols CERD/C/319/Add.1, CERD/C/320/Add.2 and CERD/C/319/Add.2, respectively. The communications from South Africa, Kuwait and France refer specifically to the follow-up of field missions and are summarized in chapter V. The full text of these communications containing additional information can be consulted in the secretariat of the Office of the High Commissioner for Human Rights.

6 The contributions received from non-governmental organizations (Amnesty International, December 12 Movement International Secretariat, Espace Afro-Américain, European Roma Rights Centre and SOS-Racismo Catalogna) were incorporated into chapter III (or into chapter IV when they concerned allegations)

A Belarus

7 The authorities of the Republic of Belarus have declared that the Public Prosecutor's Office has not filed criminal proceedings against officials or individuals for acts of incitement to national, racial or religious discord, or any other manifestations of intolerance. The authorities have further recalled that the Constitution and laws of Belarus guarantee the right of equality of all persons, including foreigners and stateless persons, residing permanently in the country.

8 As regards measures by the Government to reinforce prevention of deliberate acts designed to stir up national, racial or religious hatred or discord or to undermine dignity or national honour, or acts aimed at granting privileges or restricting rights directly or indirectly based on race or national origin, a draft revision of the penal code was adopted at first reading on 17 December 1997 by the Chamber of Representatives of the National Assembly and submitted to the Chamber of Representatives for consideration at a second reading.

9 The draft provides for the prosecution and punishment of acts such as:

(a) Genocide, that is to say, acts committed with the aim of destroying a national, ethnic, racial or religious group;

(b) Incitement to racial, national or religious hatred or discord;

(c) Violation of the rights of citizens to equality under the law;

(d) The establishment of groups or organizations that cause injury to persons or infringe the rights of citizens;

(e) Crimes committed against one or more representatives of any segment of the civilian population in the context of an attack relating to the national, ethnic or racial origin of that segment of the population or to its political or religious views.

B Cyprus

10 The Government of Cyprus indicates, inter alia, that although it has no body responsible for minority matters, it has an ombudsman who is competent to take cognizance of complaints from persons who consider that their fundamental rights have been violated. A National Human Rights Institute has also been established, comprising government officials, non-governmental organizations and members of Parliament. One of its basic functions is to investigate complaints from individuals who consider that their rights have been violated. It also submits proposals to the Government to amend laws when their provisions do not conform to human rights standards.

C. Costa Rica

11. The Government of Costa Rica has sent information on the ethnic composition of the population and on penal and educational measures adopted to combat racial discrimination and xenophobia. Particular stress has been laid on measures on behalf of the indigenous populations.

12. In Costa Rica individuals belonging to indigenous ethnic groups (approximately 35,000 persons) are living side by side with members of the Black race and persons of oriental origin. For many years now, Costa Rica, which is traditionally a host country for immigrants, has contained a large proportion of persons of very different socio-cultural origins (for example it is thought that in recent years at least 300,000 to 400,000 persons of Nicaraguan origin, accounting for some 25 per cent of the country's population have entered Costa Rica); this influx has given rise to an extremely rich culture with an acceptable level of tolerance.

13. It should be noted, however, although the situation is encountered throughout the world, that economic immigration has led to a recrudescence, while not of exacerbated racism or xenophobia, nevertheless, a measure of intolerance which in a country with a long democratic tradition as a host country is a matter for concern. For example, Costa Rica's most widely read newspaper published an article on 15 August 1999 entitled "Ticos (Costa Ricans) are the most intolerant. Study detects a decline in democratic values". This article states that 13.7 per cent of Costa Ricans are irritated by Nicaraguans and 9.8 per cent by atheists. Despite the view of society these figures give, there have been no violent reactions in terms of xenophobia, racial violence or serious intolerance in Costa Rica. This would seem to be attributable to a large extent to the education in democratic values and respect for fundamental rights which the country dispenses.

14. During the period 1998-1999, the Office of the Ombudsman reported that it was approaching the question of the rights of the indigenous peoples on the basis of two well-defined strategies. The first, concerning a project for the promotion and protection of the indigenous peoples, was conducted from November 1997 to December 1998 with the support of the Embassy of Canada. The second was adopted in response to consultations and complaints submitted directly to the Office of the Ombudsman by inhabitants of the various indigenous communities. The project emerged as a result of the Ombudsman's observations regarding the current need for Costa Rica's public sector to provide an adequate platform for action to enable the country's society to overcome the legal, political and cultural obstacles which leave Costa Rica's indigenous peoples with very limited options for developing their potential, whether individually or collectively, and this situation adversely affects their fundamental rights.

15. The experience of the promotion and protection of the rights of the indigenous peoples in which the Office of the Ombudsman has been engaged since 1993 has revealed the systematic exclusion of these peoples from decision-making which directly affects their interests and those of their communities, some of the most frequently observed problems are: being stripped of their land, irrational exploitation of natural resources, pollution of the environment, lack of basic services as regards health, education, housing and access to credit, domestic violence and systematic non-compliance with the Indigenous Act. The aim of the project for the promotion and protection of the indigenous peoples was to support institutional and community capacity, on the basis of initiatives from the indigenous population itself, in the territories of Talamanca and southern Costa Rica.

16 As regards legislative measures, Act No 7711 on the elimination of racial discrimination in educational curricula and in the mass media was adopted on 8 October 1997 Article 371 of the Penal Code punishes the practice of racial discrimination in employment in the public and private sectors

17 As regards means of prevention of discrimination, a state body is responsible for censoring any propaganda affecting a person's dignity or human rights Police action via Internet is possible provided that a judge has ordered the communications to be tapped, and guarantees that higher considerations render the violation of individual privacy legitimate

18 It may be further noted that, as part of the work performed by the constitutional jurisdiction and the Office of the Ombudsman, constant care is taken to ensure that action by the State does not for any unfounded motive affect the principles of equality and non-discrimination Constitutional case law and the decisions of the Office of the Ombudsman show that equality before the law exists as a matter of principle

D Indonesia

19 The Special Rapporteur has received the conclusions and recommendations of the commission established by the Government of Indonesia to investigate the 1998 riots which provoked acts of violence mainly against the Chinese minority (see E/CN 4/1999/15, paras 9 and 113-126) Although the commission confirmed that the majority of the victims were from the Chinese minority, it did not attribute the behaviour of the rioters to racist motives The riots appeared to have been set off by the conjunction of two factors, namely the effort by the political elites to hold on to power and the deterioration of Indonesia's economic and monetary situation

20 The commission has named a number of persons of the highest ranks in the security and armed forces as being responsible for the riot, but considers it difficult to gather evidence against the persons directly guilty of rape and sexual violence It has, inter alia, recommended that the victims and/or their families should receive compensation The Special Rapporteur hopes that this recommendation will be followed up, he invites the Indonesian Government to report on its implementation

E Iraq

21 The Government of Iraq indicates that no incidents involving racism, racial discrimination or xenophobia has been recorded in its territory Its combat against racial discrimination is founded on solid constitutional bases underpinned by the principle of full observance of the civil, political, economic and cultural rights of all the minorities which go to make up Iraqi society Kurds, Turkomans, Assyrian Syriacs, Chaldeans and others Legislation in Iraq guarantees minorities free exercise of their rights in a context of observance of basic principles, the first of these is to achieve equality and non-discrimination among citizens, whatever their national origins or their religious or linguistic affiliations, and not to favour any one group over the others, the second principle is to respect Iraq's sovereignty, the unity of its people and its territorial integrity

22 Article 19 of the Constitution of Iraq provides that citizens are equal before the law, without distinction on grounds of sex, race, language, social origin or religion. Iraqi legislation in force recognizes the national rights of the Kurds and provides a democratic legal framework to meet their political needs, bearing in mind their situation in neighbouring countries where their national and historical existence is denied. This was the reason for the adoption of Act No. 33 of 1974, granting autonomy to Iraqi Kurdistan, and Act No. 56 of 1980 concerning the regional legislative council.

23 The Iraqi Government also states that it has recognized the cultural and social rights of the Turkomans under Revolution Command Council Decree No. 89 of 1970, and the rights of the Syriac-speaking community (Assyrians and Chaldeans) under Decree No. 251 of 1972 on the same footing as the Sabian and Yezdi communities, thus demonstrating, according to the Government, the protection the State provides to religious communities, in accordance with article 18 of the International Covenant on Civil and Political Rights.

III. CONTEMPORARY MANIFESTATIONS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

A. Discrimination against Blacks (negrophobia)

24 Amnesty International has informed the Special Rapporteur that the legal system in the United States is still heavily biased as a result of racial prejudices, the consequence of which is discrimination in the application of the death penalty to African-Americans. In its report published in May 1999 bearing the title United States of America: Killing with prejudice. Race and the death penalty in the USA, Amnesty International maintains that it is "undeniable that the death penalty in the United States of America is applied disproportionately on the basis of race, ethnicity and social status. Coupled with the near-total failure of the authorities to address or even recognize this reality, the persistent presence of racial bias only reinforces the other convincing arguments against any use of the death penalty."

25 The statistics supplied in support of Amnesty International's view reveal that of the 3,549 prisoners still on death row (July 1999 figures), 46.75 per cent are White, 42.24 per cent are Black (although Blacks represent approximately 12 per cent of the population), 8.09 per cent are of Hispanic (Latino) origin and 1.41 per cent are Native Americans (Ameridians), while Asians represent 0.79 per cent. Discrimination in the application of the death penalty is particularly flagrant between the homicide of a White by a Black and that of a Black by a White, "in 96 per cent [of reviews of death sentence] there is a pattern of either race-of-victim or race-of-defendant discrimination or both".

26 The Special Rapporteur had already drawn the attention of the Government of the United States to this problem following his mission in 1994 (E/CN.4/1995/78/Add.1, para. 63). He hopes that steps will be taken to bring about greater equality in the process of American justice.

B. Anti-Semitism

27. As in previous years, the Government of Israel has provided the Special Rapporteur with the conclusions of the research carried out by the University of Tel-Aviv on major trends in anti-Semitism worldwide in 1998. The University's analysts observed that "the year 1998 was marked by an increase or intensification of all aspects of anti-Semitic activity. While the number of major violent attacks (involving the use of a weapon and especially explosives) was almost as high as in 1997 (36 compared with 38 in 1997), most of these attacks were more violent, caused more damage and indicated the enhanced local and international organizational capabilities of the perpetrators. Moreover, 1998 witnessed outbursts of violence in countries previously quiet in that respect - Greece, Serbia, Uruguay and South Africa - not to speak of the overt political and uncurbed usage of anti-Semitic motifs and intensified atmosphere of violence in Russia. Further, an increase, albeit small, was recorded in major violent incidents (unarmed attacks on persons and damage to private and communal property) - 121 compared to 116 in 1997. Here again, several incidents involving the beating of rabbis in the streets of Russia, Argentina and the United Kingdom [were reported]. In the United States, a 2.5 per cent rise in anti-Semitic incidents was reported after a three-year decline ..."

28. "An analysis of regions should commence with Russia, where violence against Jewish life and property by means of arson and explosives, accompanied by popular incitement, and the most severe anti-Semitic rhetoric by politicians heard in decades went undenounced by the body politic, including intellectuals. The Communist Party, the largest opposition party, used blatant anti-Semitic slogans as a political weapon which the Parliament failed to denounce (see also chapter IV, section F, below). While the legal tools to act against racism exist, the absence of official reaction and the reluctance to use these tools have only served to encourage and legitimize this form of extremism ..."

29. "In North America, the rise in the number of incidents was accompanied by a general upsurge of anti-Semitism, manifested in the continuing proliferation of hate sites on the Internet ... anti-Semitic sentiments persisted especially among White right-wing extremists and Black Muslims."

30. "In South America, a quiet continent for many years (except for the two bombings in Buenos Aires), there was an increase in extreme right and neo-Nazi activity, influenced by the European scene. The collapse of two Jewish-owned banks ... prompted anti-Semitic reactions and expressions ..."

31. "In parallel to these developments, Muslim extremists were suspected of cooperating with local ultra-rightists or leftists to further violence in Greece and South Africa, and intensify anti-Semitic activities in ... Australia and the United Kingdom."

32. "The weakening of local right-wing organizations had been replaced either by regional reorganization (for example, EuroNat, initiated by the French National Front Party, and its Scandinavian counterpart NordNat) and by international organization, such as the world Nazi conference planned for April 2000 in Chile. The new concept 'leaderless resistance', evident

now in Canada, France and Britain, means that individuals and small groups can circumvent both stronger police enforcement of laws and better communal protection, as well as enhanced governmental measures (such as in Norway, Sweden and Denmark)".

33. The University of Tel-Aviv analysts also noticed that electoral success or failure affects relations between political parties and extremist movements and ideas, as was shown by the rise of the Party of Hungarian Justice and Life (MIEP) in Hungary and the decline of the Republican Party in the Czech Republic and the Slovak National Party in Slovakia. They emphasized, however, that election results do not fully reflect the influence of and potential support for extremist parties and movements, much as numbers of violent attacks do not reflect the damage they cause or the stress they inflict.

34. During his mission to Hungary (27-30 September 1999) the Special Rapporteur met representatives of the Jewish community, who expressed fears regarding the anti-Semitism propagated by the extreme right-wing MIEP party (Party of Hungarian Justice and Life). They also said that the members of the Jewish community had not been fairly compensated for the discrimination they had suffered, for the Holocaust of which their parents had been victims during the Second World War or for their plundered property. While the victims of Communism had received 1 million forints in compensation, the Jews had received only 15,000. Much of the property that had belonged to Jews before the war was still in the hands of the State, which was slow to return it. The Hungarian Parliament had moreover not yet passed an act condemning the denial of the Holocaust and incitement to racial hatred.

C. Discrimination against the Roma

35. In addition to the situations described in the addendum to this report (E/CN.4/2000/16/Add.1, "Mission to Hungary, the Czech Republic and Romania"), the Special Rapporteur is concerned about the discrimination experienced by Roma asylum-seekers in Europe. In view of the discrimination they have suffered in some Central and Eastern European countries, particularly the Slovak Republic and the Federal Republic of Yugoslavia, and the acts of violence against them perpetrated by racist groups, many Roma seek asylum in Western European countries. Obstacles arise at frontiers, however (reintroduction of visas, for example, between Finland or Norway and Slovakia), and when they do manage to enter a country they are collectively deported after a summary review procedure. In October 1999, 70 Roma asylum-seekers were deported from Belgium to Slovakia. According to several human rights organizations, a mass deportation of this nature is not in accordance with international standards concerning the right of asylum (which require each application to be considered individually) and may be regarded as discriminatory.

IV. REPLIES TO ALLEGATIONS TRANSMITTED TO GOVERNMENTS BY THE SPECIAL RAPPORTEUR

36. In 1999, the Special Rapporteur transmitted allegations of racism, racial discrimination and xenophobia to the following Governments for comments: Germany, Australia, Spain, United States of America, Russian Federation and the Islamic Republic of Iran. He also received replies from Canada and the United States to communications that had been pending since 1996 and 1998 respectively. The Special Rapporteur is still awaiting the conclusions of the Israeli

commission established to consider the question of blood donations by the Ethiopians, as promised by the Israeli Government following allegations of racial discrimination against the Falasha (see the communication dated 2 February 1996 in E/CN.4/1997/71, paras. 120-126). The Special Rapporteur is also waiting for the South African Government to send him the results of the investigation into the xenophobic acts of which a Mozambican and two Senegalese appear to have been the victims near Pretoria on 3 September 1998 (see E/CN.4/1999/15, paras. 102-105).

A. Germany

37. It has been reported that Sinti and Roma minorities are being specially registered in the databases and records of the Bavarian police as "Roma/Sinti type", "gypsy type" or the old Nazi term "Landfahrer" ("vagrant"). The Central Council of German Sinti and Roma has been informed of the report of the Bavarian Data Protection Commissioner of 16 December 1998 which states that Sinti and Roma are being registered generally on special police files without reason or legal basis by their personal details and even the number plates of their cars and further data. The police justify this storage as supposedly "vorbeugende Verbrechenbekämpfung" ("preventive crime combat") and explain that Sinti and Roma "could be a public danger".

Government reply

38. Executive and legislative responsibility for the police in Germany does not lie with the Federal Government but with the governments of the Länder (provinces). The only exceptions are the Federal Border Police (Bundesgrenzschutz) and the Federal Criminal Investigation Agency (Bundeskriminalamt). Thus, practices of registration in the databases and the records of the police fall under the responsibility of the Länder. Within the areas of responsibility of the Federal Government terms such as "Roma/Sinti type", "gypsy type" or "vagrant" are not used as categories in the INPOL data-processing system.

39. Computerized registration was also the subject of a question in the Bundestag put forward by Alliance 90/The Greens ("Criticism of racist classification" in police records). In its answer, dated 19 December 1996, (Bundestag Printed Materials 13/6623) the Federal Government stated that "... doing away with such classifications altogether does not come into consideration because of their indispensable nature for police work ..." and that "... the collection of such auxiliary characteristics for police use only is not contrary to article 3 (3), first sentence, of the Basic Law ...".

Additional reply by the government of the Land of Bavaria

40. With reference to the issue addressed in the communication from the Special Rapporteur, the Bavarian State Ministry of the Interior has provided the following information:

41. "The Bavarian police do not keep records of all members of the Sinti and Roma ethnic groups. Only in individual cases are such persons registered as ethnic 'Sinti and Roma' as part of the personal details noted during police questioning, when such a record is necessary for criminal-tactical reasons and the information is provided on a voluntary basis, and types (type Sinti/Roma) as part of a physical description recorded either on the basis of information provided

by witnesses/injured parties if the suspect is unknown, or by the police if the suspect is known (and present) during the identification procedure, only the outward appearance, and not the actual membership of the Sinti or Roma ethnic groups is of relevance here."

42. "For practical reasons the police consider that this procedure should not be altered because significantly reducing the number of characteristics described fails to meet the needs of the identification process. To this is added the not insignificant issue of data protection laws, for using generic - and thus mostly inexact - terms will produce a greater number of possible suspects, meaning that more photographs of innocent people have to be shown to eyewitnesses than is in fact necessary."

43. In this context the accusation that the police justify recording membership of the Sinti and Roma ethnic groups as "preventive crime combat" and say that Sinti and Roma can present "a danger to the public" is dismissed as unfounded. On the basis of many statements from the Bavarian State Ministry of the Interior, the Bavarian Commissioner for Data Protection informed the Central Council of German Sinti and Roma on 1 August 1996 that there is no reason to object to the police procedure described above.

44. In reaction to the comments of the Central Council of German Sinti and Roma on the eighteenth Activity Report of the Bavarian Commissioner for Data Protection dated 16 December 1998, the following information was communicated:

> "The procedure described in paragraph 5.3.5.2 (p. 48) of the above-mentioned report has been abandoned as of year-end 1998, so that for all practical purposes the matter that gave rise to this report is settled. No general record is kept of people's membership of the Sinti and Roma ethnic groups, nor of the membership of nomadic groups in general. Data relating to nomadic groups are only recorded in cases of actual disturbance of the peace (e.g. when prosecuting criminals)."

B. Australia

Case 1999/1: Allegations of discrimination against indigenous children

45. It has been reported that "indigenous children are still being removed from their families and communities at a disproportionately high rate". Allegedly, "this trend was linked to the effects of past removal policies, poor socio-economic status and the systemic racism in broader society".

46. It has been further stated that:

> "It is the contact with the child welfare and juvenile justice systems which leads to many indigenous children being removed from their families. Indigenous children throughout Australia still remain significantly over-represented in care, particularly in long-term foster care, and a high percentage of these children live with non-indigenous carers."

C. Canada

Communications dated 12 February 1996

47. According to reports sent to the Special Rapporteur, "Quebec's population has split after the referendum on sovereignty on 30 October 1995" (No: 50 6 per cent, yes: 49 4 per cent, turnout: 94 per cent) and that "several radical movements have since come into being and expressions of racism, xenophobia and intolerance have allegedly multiplied".

48. According to the reports, "the constitutional debate is increasingly marked by emotional outbursts, and statements are increasingly polarized. Each of the contending parties accuses its adversary or adversaries of racism or even fascism. More and more movements have emerged, leading to a radicalization of the debate and (conflicting) territorial claims". The situation is described as "disturbing".

Government reply (extract)

49. The Government considers that Canada's laws and judicial system ensure adequate, accessible and effective protection for all Canadians against manifestations of racism, discrimination or xenophobia. It stresses that a complaint of this nature to an international body is neither justified nor necessary in the present context. It also wishes to stress that the domestic judicial system has the capacity and the competence to respond to complaints of this type and is in a position to grant appropriate compensation should they prove valid. In the case in question, no domestic judicial remedy has been sought by the complainants regarding these allegations. The Canadian Government considers that the said allegations should first be examined by the Canadian judicial system before recourse is had to international machinery. Lastly, the Canadian Government is aware of and concerned by the various manifestations of racism and intolerance and considers that a state of vigilance should be maintained so that problems of this kind, from which no society is safe, can be faced up to and eliminated.

D. Spain

1. Case 1999/1: Allegations of abuses of authority and racially motivated acts of aggression by the police

(a) Gerona

50. The Investigation and Action Group on Ethnic Minorities (GRAMC) reports that immigrants are subjected to harassment by the police (5 March 1997). According to certain sources of information, during recent months the police have launched a campaign of random identity checks of immigrants; they have been checking the identity papers of individuals standing in queues at the offices of the civil government responsible for the issue of permits and of selected adolescents aged 15 or 16 at school entrances. In addition, the officials of the GRAMC state that the police attempted forcibly to enter four flats occupied by immigrants at Santa Coloma de Farners looking for individuals without papers. The Civil Governor, Robert Brell, denies these allegations and states that immigrants are treated with "extreme courtesy".

Government reply

51. As regards the allegation by the GRAMC association concerning a random identification and harassment operation by the police against immigrants on 5 March 1997 in the province of Gerona, it must be emphasized that none of the alleged acts were committed either in Government departments or in teaching establishments.

52. The only case in which the identity of immigrants must be verified arises when they come to obtain a permit and the police officers responsible for security on the premises verify their identities in order to authorize entry into the building and movement within it; if appropriate, such identity checks may be made at the request of the police authorities. In the latter case, it should be emphasized that members of the police forces have a duty and an obligation to comply with the legislation in force when arresting any person - whether an immigrant or not - who is wanted by the police and has been traced by them.

53. As regards the allegations to the effect that members of the national police force attempted forcibly to enter four flats, it should be stated that there is no knowledge of the alleged facts and that up to the present time the authorities have received no information on any legal proceedings instituted against the officials concerned for breaches of articles 204 and 534-1-1 of the Penal Code.

(b) Vigo

54. **Mr. Kane, a Senegalese citizen, has filed a complaint against the local police for abuse of authority, illegal detention and ill-treatment (16 March 1997).** He alleges that on 16 March 1997 at 5.30 p.m., four members of the Vigo local police force arrested him illegally on Samil beach and took him up a hill; during the journey, which lasted an hour, they insulted and struck him and threatened him with deportation. The local police deny these accusations and state that he was arrested at 7.05 p.m. and arrived at the police station 10 minutes later. However, eyewitnesses confirm the time given by the Senegalese national, and a woman who went to the police station to ask about him has stated that a policeman said to her: "Don't worry, they have probably taken him for a little walk; I am sure that he is already back at Samil". The lady coordinator at the Information Centre for Foreign Workers (CITE) states that there have been numerous cases of "little walks" of that kind, but that the victims hardly ever lodge complaints because they are afraid of reprisals. In the case under consideration, Mr. Kane's papers were in order and he had a regular job. In view of the seriousness of the facts, which demonstrate that members of the local police force falsified the times in the report on the case, a number of inquiries were opened by Amnesty International, the mayor of Vigo and the Committee against Racism and Xenophobia, which sent a report on the "Kane affair" to Queen Sophia. The National Social Service Institute (INSERSO) has condemned these acts, and the case is at present before court No. 5 in Vigo. The public prosecutor has called for a maximum sentence of three years' imprisonment for the officials concerned.

Government reply

55. The Vigo police station recorded in its files a complaint bearing the serial number 5138, dated 17 March 1997 and deposited at 1.50 a.m., to the effect that Mamadou Kane, a Senegalese

national, bearer of residence permit No. 1266737-R, born at Kanene (Senegal) and residing at 25 Avenida Fragoso, first floor, right, in Vigo, declared that he had been a victim of ill-treatment by members of the local police on 16 March 1997 at about 5.30 p.m. The officers had checked his identity on the Paseo de Samil in Vigo and then had taken him out of town in a police car to a place which the complainant believed was in the university quarter, there he had been subjected to ill-treatment and insults. Subsequently, at the request of the complainant, the municipal police officers took him to the police station in Vigo, where he arrived on the 16th, but at 7.15 p.m. His arrival was registered under serial number 660, and he left at 7.30 p.m. on the same day.

56. The file was transmitted to investigating magistrate No. 5 in Vigo, who examined the case. The information obtained indicates that the municipal police officers implicated were tried and sentenced by the provincial court in Pontevedra. One was sentenced to 4 years' imprisonment and 10 years' full deprival of civil rights and the others to 2 and 3 years' imprisonment respectively and 8 years of full deprival of civil rights. They were also condemned jointly to pay 100,000 pesetas to the victim as compensation for moral prejudice and a fine of 15,000 pesetas for assault and battery; to four periods of weekend detention, and to payment of costs. An appeal against the sentence has been submitted to the court of cassation.

(c) Madrid

57. **A former member of the Civil Guard shot and killed a young Moroccan aged 19 (20 June 1997).** On 20 June at 4 a.m. Miguel Ángel M.U., a 32-year-old Civil Guard reservist, shot a young Moroccan national, Mourad El Abedine, in the back. The young man, who had arrived in Spain at age 9, was walking with his friends and his girlfriend when they passed in front of a man lying in a corner, apparently drunk. The young man dropped back to tie up his shoelace, and the man shot him in the back with a .32 Astra revolver. A woman living in the neighbourhood called the police, who arrived on the spot a few minutes later and arrested the attacker. The young man was beyond help and died. An inquiry was opened to determine why the murderer was armed, since he did not meet the necessary conditions to be in possession of a service weapon for "self-defence". Initially the hypothesis of a racist crime was not taken up, however, several witnesses have affirmed that Miguel Ángel M. said to the young man: "Hey, you there! Are you an Arab?" and fired when the latter answered affirmatively. Following that incident a number of demonstrations were organized on the initiative of the Moroccan community.

Government reply

58. An inquiry (No. 6648/5) into the death of the young Moroccan national Mourad El Abedine on 20 June 1997 was opened on 20 June 1999 and conducted by investigating magistrate No. 39 in Madrid. The provincial court of Madrid, by decision No. 69/99, returned a verdict of murder without circumstances modifying criminal liability. However, it is impossible to affirm that in this case racial or anti-Semite motivations or any other type of discrimination based on ideology, religion, convictions, ethnic origin, race or nationality of the victim were present.

(d) El Ejido (Almeria)

59. **A 22-year-old Algerian reported that he had been tortured by the police (26 April 1997).** According to his version of the facts, J. Andalusi was arrested by two policemen from El Ejido, who took him out into open country, forced him into a dried-out pond and beat him with truncheons until he lost consciousness. However, the police state that he was a violent man who had already been arrested several times and that he was injured while they were trying to arrest him. At the request of the workers' commissions and the Paz y Solidaridad Foundation - two organizations representing Andalusi - the case was referred to the Defender of the Andalusian People.

Government reply

60. According to information supplied by the principal police prefecture, on 26 April 1997 the police authorities in El Ejido received complaint No. 483/97. The preliminary inquiry (No. 278/97) was assigned to investigating magistrate No. 1 in the same locality. The local police arrested Rameni Hicham, born in Algeria in 1975, Abdeljalil Chabouni, born in Morocco in 1968, Said Misahoui, born in Algeria in 1977, and Jaimai Andalousi, born in Algeria in 1975, on suspicion of having stolen a car.

61. The police station files indicate that Jaimai Andalousi was arrested eight times between 1995 and 1998 for various offences: infringements of the law concerning foreigners, illegal use of motor vehicles, robbery with violence, obstructionism, sexual brutality, wounding with a knife and threats. It was not the national police force which intervened, but the El Ejido local police and the gendarmerie.

(e) Córdoba

62. **The municipal authorities are investigating the alleged ill-treatment of a Senegalese national by a member of the local police on 23 October 1997.** El Hadji G., who had been living in Córdoba for 10 years and whose papers were in order, was insulted by a policeman, who called him a "stupid bastard" several times and told him that he was going to teach him to respect the Spanish police. He handcuffed him and hit him on the head (causing an injury to the skull for which he subsequently had to be hospitalized), and threatened to withdraw his municipal hawker's licence. The colleagues of the policeman asked him to cool down. El Hadji was then brought before the judge on duty, who ordered his immediate release. The presumed aggressor affirms that El Hadji attacked him: "The Senegalese pushed me with his hand and hurt me; he attacked me without any reason". This is denied by the Association for the Defence of Immigrants in Córdoba, which has asked the municipal authorities to open an inquiry to clarify the facts. The Immigration Office, for its part, has criticized the mayor of Córdoba for the "inertia which the municipal authorities have shown in this case" and pointed out that that indifference is liable to "give rise to behaviour patterns among the inhabitants of Córdoba which are alien to the spirit of openness and solidarity which characterizes them".

Government reply

63. According to the police station, complaint No. 803 was filed with the municipal police on 23 October 1997. In that complaint El Hadji G., a Senegalese national, was accused of

infringements of the traffic regulations and subsequently declared that he had been subjected to racist treatment. The national police force had not intervened, as it had not been informed of the details of the incident.

(f) Melilla

64. **An Algerian national is beaten up, but the police fail to intervene (25 October 1997).** The victim was asleep in the Red Cross premises when several police officers forced him down into the courtyard. There several individuals in civilian clothes were waiting for him; they beat him with iron bars, with the result that he had to be hospitalized. The police officers watched the scene and made no move. The Melilla Association for Human Rights has lodged a complaint against the individuals concerned.

Government reply

65. On 22 October 1997 complaint No. 27,295 was lodged at the police station. In that complaint Mohammed Zenagis, an Algerian citizen, declared that he had been injured during an attack in the former Red Cross hospital in the city and mentioned that members of the local police had been present when the incident took place. Following that incident, preliminary inquiry 2.056/97 was assigned to investigating magistrate No. 2 in Melilla. The case was dropped on 28 October 1997.

(g) Lérida

66. **Three police officers beat up an African in the Barrio Antico (12 November 1997).** Dennis J.N. lodged a complaint with the duty court against three police officers who had struck him after asking for his identity papers. According to the police, he had refused to show his papers and had resisted the officers, who had consequently had to overpower him. However, a woman who was present at the scene came before the court to denounce the aggression and confirmed the version of the victim.

Government reply

67. On 11 November 1997 members of the national police forces from the provincial police headquarters in Lérida, in the performance of their duties, arrested Denis Noe Joukwe Njigang, a Cameroon national, born in Cameroon on 15 April 1972, the son of Valentin and Emiliane, residing at 4 Via Sant Marti, fourth floor, and bearer of identity papers No. X-2039602-P, in the old quarter of Lérida on suspicion of "drug trafficking". The violent reaction of the latter to the members of the police force present at the time of the arrest gave rise to an altercation, as a result of which the arrested person and one of the police officers present were injured. The latter fact was mentioned in the report established (No. 43,231), which was referred to investigating magistrate No. 7 in Lérida and which gave rise to the first formal conclusions of the investigation (No. 1207/97).

68. When the prisoner was remanded in custody he made a specific charge of ill-treatment against the police officers who arrested him. As a consequence, the officers concerned were summoned before the same judicial authority to make statements in the capacity of persons

charged, and the government lawyer had to intervene in their defence. On 27 March 1998 the prosecution, represented by Sonia Martínez Albiñana a member of the Lérida Chamber of Advocates, requested that the case be dismissed and that proceedings for a minor infringement be instituted. Hitherto the parties have not been notified of the institution of any such proceedings. Denis Noe Joukwe Njigang is at present in detention in the holding centre for aliens in Barcelona; the authorities are expected to deport him.

2. Case 1999/2. Allegations of acts of violence committed by individuals or groups

(a) Santa Coloma de Gramenet (Barcelona)

69. **An immigrant from Bangladesh attacked by five skinheads (25 January 1997).** The attack took place in the Montigalà district of Badalona, where the victim was punched with knuckledusters, kicked, and then abandoned, by five skinheads. The young man, who hailed from Bangladesh, was able to return to his home in Santa Coloma, where he was assisted by neighbours, who took him to the hospital.

Government reply

70. Mohamed Ayub Ali, an immigrant from Bangladesh, holder of Bangladeshi passport No. H-042593, born at Manikgonj (Bangladesh) on 3 March 1964, the son of Chandu and Mollah, residing at 110 Via Monturiol, flat No. 1, at Santa Coloma de Gramenet (Barcelona), was the victim of an attack by four youths who, after accosting him in the street, punched and kicked him many times and left him lying unconscious on the ground. After recovering consciousness he made his way home, where he asked the neighbours for help. They called an ambulance, which transported him to hospital, where a report on his condition was drawn up.

71. On 29 January 1997, a member of the national police force attached to the local police headquarters at Santa Coloma de Gramenet, which was located close to the residence of the victim, learned of the facts and went of his own accord to the latter's home. Having observed the seriousness of the injuries, he accompanied the victim to the above-mentioned police station to enable him to make the statement necessary for appropriate action to be taken to arrest the attackers. Owing to his injuries the victim was unable to make a statement; he was taken back to the hospital, where the second part of the report on his condition was drawn up. Once his state of health had improved the victim made his statement on 30 January 1997, and the investigation (No. 760) was referred to the investigating magistrate at Guardia de Santa Coloma de Gramenet.

(b) Campo di Cartagena (Murcia)

72. **Attacks on immigrants.** During January and February 1997, 11 cases of attacks on immigrants (the majority of them North Africans working in different localities in the Campo di Cartagena) were reported. The attackers use sticks and stones; they generally operate from two cars and attack individuals walking or cycling along the road. Most of these attacks have not been reported to the Civil Guard, since the papers of the victims are not in order.

Government reply

73. In January and February 1997, 11 cases of attacks on immigrants were reported; the majority of the victims were North Africans working in different localities in the Cartagena region. The attacks took the forms of blows with sticks and stone throwing; they were perpetrated from two cars when the victims were walking or cycling in the street. The majority of the incidents were not brought to the attention of the Civil Guard, since the papers of the victims were not in order.

74. The competent police authority is the gendarmerie by virtue of its territorial competence. Consequently, the national police forces do not intervene in these cases.

(c) Granollers (Barcelona)

75. **A group of skinheads attacked a young Gambian.** Two of the attackers were arrested after striking B.K., seriously injuring him. B.K. has filed a complaint and is awaiting the judgement.

Government reply

76. Bahoreh Konthe, a Gambian citizen with identity papers No. 1393208-Y, born on 1 January 1960 at Demba Kumda (Gambia), the son of Tamba and Mesa, residing at 189 Via Girona, flat 4D, complained, in statement 4786 of 30 November 1996, of having been physically attacked and threatened with a knife by a group of skinheads.

77. Following inquiries conducted by the police officers in charge of the case, Tomás Revelles Carrasco was arrested on suspicion of having participated in the incident. In the statements he made voluntarily at the police station and in the presence of his lawyer, he named Sergio Mallorga Resina, the holder of identity card 47.706.700, as the perpetrator of the attack.

78. Sergio Mallorga was arrested by members of the national police forces and stated at the police station that the person who had produced the knife and threatened the Gambian national was Sergio Ocana Teriz. The latter also admitted participating in the attack, although he claimed that it was the result of a scuffle provoked by the person attacked. When Sergio Ocana, after his arrest, made a statement at the police station, he alleged that Sergio Mallorga had been the attacker of the Gambian national, but that he himself had not produced a knife.

79. The three persons were released, and report No. 1651, dated 22 April 1997, supplementing report No. 4786 dated 30 November 1996, was referred to the investigating magistrate at Guardia de Granollers.

(b) Murcia

80. **After harassing a number of immigrants, a gang of skinheads battered a young Moroccan, seriously injuring him (18 March 1997).** At about midnight a dozen skinheads on the loose in the Malecón district, after harassing several immigrants, chased a young Moroccan, Watiby M.D., and beat him with baseball bats and chains, causing him injuries which made it

necessary to hospitalize him. It appears that the group of aggressors - youths of approximately 17 years of age - were led by two men in their thirties who were the principal authors of the attack. Other similar acts have occurred in recent months; this has led the parties of the Left and the trade unions to demand that the Government delegate should open an inquiry to determine whether neo-Nazi groups were implicated in those incidents.

Government reply

81. A band of skinheads, after chasing several immigrants, beat a young Moroccan, injuring him (18 March 1997). At about midnight a gang of about a dozen skinheads on the loose in the neighbourhood of the jetty chased several immigrants, then went on to hunt down a young Moroccan, Watiby M.D., and beat him with baseball bats and chains causing injuries for which he had to be hospitalized. It appears that the group of attackers, which was made up of youths of about age 17, was led by two men aged about 30, who were the actual perpetrators of the attack. Similar incidents have occurred during recent months. That situation has led the Left-wing parties and the trade unions to urge the Public Prosecutor to open an inquiry in order to determine the responsibility of neo-Nazi groups in the incidents.

82. Intervention by the police. At the request of intervention section 091, a police patrol went to the spot and took the injured man to hospital for treatment; he remained under observation for a few hours. A report on his condition was established. The patrol made a report on its intervention to the department for the receipt of allegations in the principal prefecture; the latter transmitted it, under serial No. 5965, to investigating magistrate No. 4 in Murcia. The provincial information squad continued its inquiries, but without result.

83. Remarks. At the time this case gave rise to the dissemination of a great deal of information alleging that the case was clearly racist in character. However, the police are of the opinion that in fact the Moroccan made a gesture of sexual provocation at a young Spaniard travelling around on a moped with a group of friends. The young Moroccan did not cooperate with the police investigators - it has been difficult to trace him, since he has never given his address, even though his papers were in order - and he gave the impression of having been manipulated. Likewise, he did not give the names of the persons implicated in the case.

(e) Zaragoza

84. **Five skinheads tie up a Senegalese national and dump him on waste ground (8 April 1997).** A young Senegalese, Ismaila N., was accosted early in the morning by a group of five skinheads; after hitting him on the head, they bound his hands and feet with wire and left him on a patch of waste ground. The young man was found the next morning showing symptoms of hypothermia and was taken to hospital.

Government reply

85. Complaint No. 3667, lodged on 8 April 1997 at the central police station in Zaragoza, states that Ismaila Ndiaye, a Senegalese national, born on 2 June 1972 at Grobel (Senegal), the son of Sernioai and Abinavi, residing at the time of the alleged facts at 1 Plaza Santo Dominguito del Val, third floor, left, was proceeding along Vía Urrea in Zaragoza at

approximately 2 a.m. on that day when he was insulted, attacked and tied up with string and wire and then left in a building in the same street, by five persons between ages 25 and 30 with shaved heads and wearing boots and short-sleeved shirts. They said that they had acted in that way **"because he was Black"**.

86. The measures then taken to verify the facts and to identify the attackers yielded no results; the victim was shown a large number of photographs of skinheads and other persons with past records of participation in other xenophobic or racist attacks, but recognized none of them. Likewise, the other inquiries effected among neo-Nazi and skinhead groups yielded nothing. It was impossible to verify whether the attack had in fact taken place. The owners of the building in Vía Urrea where the complainant was abandoned, and the people living near that building, were also unable to provide any information.

(f) Granollers (Barcelona)

87. **A group of youths insult and beat a Senegalese national (April 1997).** Six youths aged between 18 and 20, after calling David K., aged 32, married to a Catalan woman and the father of two children, a "dirty nigger", waited for him to park his car and walk towards his brother's house to accost him once again and beat him with iron bars.

Government reply

88. In complaint No. 1475 dated 5 April 1997, Diskhaby Koumera, bearer of identity papers No. X-1512873-W, born on 3 July 1964 at Diakha Medina (Senegal), the son of Bangali and Sira, residing at 8 Vía Argimón, Flat 2, in Barcelona, stated that four persons had insulted him in the street, calling him a "dirty nigger" and a "negro son of a whore". It appears that the complainant, who had protested at their insults, was attacked by the youths with sticks and sprays.

89. Officers of the national police force attempted to undertake the necessary inquiries to establish the facts; but their efforts were unrewarded as no witnesses came forward. However, according to information provided by persons living in the area, the incident did not take place in the manner in which it was reported. It began when three persons, including the complainant, passed by four other persons sitting on a bench who made a jocular remark about the straw hat one of the Black youths was wearing.

90. The subjects of the remark must have resented it. Tempers rose, and the two groups picked up short lengths of electric cable lying on the ground with the intent of beating each other. Contrary to what the complainant stated, in no case did they use sticks. The scuffle did not develop further, because the inhabitants of the area who were in the neighbourhood intervened.

91. Subsequently the complainant stated his version of the facts and on the following Monday took part in a radio broadcast to denounce the incident publicly. The inhabitants of the neighbourhood consistently refused to tell the police who were the presumed attackers, because they considered that all concerned shared responsibility for the incident. A few days later the association of the inhabitants of the district held a meeting, at which representatives of

SOS Racismo were present, during which light was thrown on all the details of the incident. The investigating magistrate in Guardia de Granollers was assigned responsibility for the inquiry by the police station in Granollers on 5 April 1997.

(g) Sabadell (Barcelona)

92. **Three skinheads attacked a young Black (April 1997).** Salimo X.S. was crossing the Rubió i Ors esplanade on a pedestrian crossing when the occupants of a car began to insult him, calling him a "nigger and a son of a whore". Then one of the passengers got out of the car with an iron bar ready to hit him; they threw stones at each other, and Salimo was injured. The police later arrested the young skinheads and found knives and Nazi symbols in the vehicle.

Government reply

93. As regards the attack on Salimo Silla, bearer of identity papers No. X-1418625-P, born on 14 December 1961 in Guinea-Bissau, the son of Mahmadou and Fatumata, residing at 88 Via Llobregat in Sabadell, complaint No. 4582 was lodged on 25 April 1997, and the attackers - Juan Sánchez Campaña, Antonio Navarro Huete and Ángel Calahorro Jacobo - were arrested on the very day of the incident by members of the national police force from the local police station in Sabadell. At the time of their arrest they were carrying three knives and insignia with Nazi symbols on them. The case was referred to the investigating magistrate in Sabadell.

(h) Santa Coloma de Gramanet (Barcelona)

94. **Skinheads attacked a municipal councillor who tried to defend two immigrants at the April Fair (April 1997).** A group of 15 skinheads, after chasing a young North African and a young Black man, who took refuge in the Iniciativa por Catalunya (IC-EV) stand, attacked the stand and injured the representative of that association, Manuel Garcia.

Government reply

95. As regards the attack which is the subject of a complaint by Manuel Garcia Cuesta, bearer of identity card No. 52.399.809, born on 5 December 1972 at Santa Coloma de Gramanet (Barcelona), the son of Manuel and Maria, residing at 53 Via Pompeu i Fabra, 3rd floor, flat 2a, in Santa Coloma de Gramanet, the complainant alleges in his statement (No. 2866, dated 27 April 1997) that he was attacked by four or five young skinheads forming part of a larger group who had entered the Iniciativa per Catalunya stand installed inside the perimeter of the April Fair being held in Santa Coloma de Gramanet. They violently attacked a man of Arab origin and insulted and threatened a black waiter who was working in the stand.

96. The incident took place when the complainant, together with two friends, approached the group of agitators with the intention of protecting the two foreigners and ordering the skinheads off the premises. Once outside, the skinheads began to throw stones and chairs at the stand, and the complainant received kicks and punches which knocked him down. Before the arrival of the police, who had been called by an employee in the stand, the attackers had run away, but the complainant had managed to hold one of them down. The latter was arrested and taken to the police station, where he made a statement.

97. The person arrested was Angel Arriaga Marchena, bearer of identity card No. 53.078.575, born on 17 August 1979 in Barcelona, the son of Emilio and Dolores, residing at 2 bis Via Europa, flat 1a, in Badalona. In his statement he declared that he was at the place where the incident took place in the company of three friends, but that none of them had taken part in the attack. Subsequently the friends of the detainee whose names follow were summoned to make statements: Ivan Barriga Vega, bearer of identity card No. 46.763.361; Abel Lorenzo González, bearer of identity card No. 46.703.258; and David Peral Pérez, bearer of identity card No. 53.074.879. The case was referred to the investigating magistrate in Santa Coloma de Gramanet.

(i) Valencia

98. **A Tunisian was attacked by bouncers in a discotheque because he is an "Arab" (3 June 1997).** A security employee in a discotheque in Valencia asked Facuzi H. his nationality; on learning that he was Tunisian he ordered him to leave the premises. He refused to do so, and the two security employees (apparently skinheads) beat him brutally and threw him out into the street. Facuzi then went to seek the assistance of the national police, but the officers did nothing to arrest the attackers, contenting themselves with taking him to the general hospital. This is the second time that Facuzi has been attacked because he is Tunisian.

Government reply

99. As regards the attack on a Tunisian by the doorkeepers at the "KUBA" discotheque in Valencia, it is a fact that on 31 May 1997 Facuzi Jeridi, a Tunisian citizen, bearer of identity card No. 830, born on 22 May 1967 at Gabes (Tunisia), lodged complaint No. 6654 against the management and the employees of the "KUBA" discotheque for a racially- and xenophobically-motivated attack.

100. The inquires undertaken led to the arrest of four persons connected in some way with the discotheque and suspected of being implicated in the attack. These inquiries, together with the statements concerning the incident made by witnesses, seem to suggest that a fight started between the Tunisian and at least one other person, that the altercation took place in the street at the door of the discotheque, and that the young Tunisian received injuries which were treated in a dispensary. It was impossible to establish clearly whether or not all the injuries were the result of the fight.

101. The allegation of xenophobia and racism made by the complainant seems equally unfounded; the facts as described in complaint No. 5398 of 6 June 1997 indicate that, if not an act of "sexual aggression", at least a possible act of violence was committed against a girl who, when describing the incident to other persons, including the employees and her fiancé, stated that the altercation had taken place at that moment. It should be added that the discothèque in question employs an Arab as doorkeeper and that the Tunisian is well known by the employees and the customers as a habitué of the place. That means that his being an Arab was not an obstacle preventing him from frequenting the discothèque.

102. Finally, it should be mentioned that this young man has used 10 different names and given differing information concerning his identity and nationality on the 27 occasions on which

he has been arrested for offences of robbery with violence and intimidation, housebreaking, breaches of the legislation concerning foreigners, acts of violence against representatives of authority, resistance and obstructionism, possession of weapons, petty thefts, etc.

(j) Madrid

103. **Four Skins stabbed a young man who had taken up the defence of a Black friend (20 June 1997).** At the exit from the Bilbao underground railway station four skinheads insulted a Black boy and his friends, the result was a scuffle in which one person received a serious stab wound. The skinheads, aged between 19 and 22 years, succeeded in escaping.

Government reply

104. Police inquiry No. 25.252, concerning the wounds a youth is alleged to have received while trying to defend a Black friend on 20 June 1997, was opened on the same day; inquiry No. 3974/97 was conducted by investigating magistrate No. 27 in Madrid. A provisional order to drop the case was issued on 30 July 1997 in the absence of any known perpetrator.

105. It should be mentioned that following the inquiries into the facts of the incident the victim himself, Rafael Vecino Soriano, and the witnesses, Williams Alexis Fernando and Gabriel Menéndez Arroyo, both friends of his, were in agreement that the attackers, although they had the appearance of skinheads, were more likely to have been "Bakalaeros" attracted by violence. It would therefore appear that the incident was in no way racially motivated.

(k) Murcia

106. **The Murcian skinheads returned to the attack (4 July 1997).** This time the victims were two North Africans residing in Cieza who were leaving the law courts, where they had gone to attend to their residence permits. The Skins, who were travelling around on motorcycles and mopeds, surrounded them and set on them, beating them in the open street at 2 p.m. under the dumbfounded gaze of passers-by. On the intervention of a local police patrol, the attackers fled, but before leaving they threw one of the Moroccans to the ground and beat him with an iron bar.

Government reply

107. The skinheads have returned to the attack (4 July 1997). The victims of this incident were North Africans residing in Cieza who were leaving the law courts, where they had to obtain their residence permits. The skinheads, who were travelling around on motorcycles and mopeds, surrounded them and began to beat them in the open street at 2 p.m. under the astonished gaze of the passers-by. On the arrival of a local police patrol the attackers fled, but before leaving they threw one of the Moroccans to the ground and beat him with an iron bar.

108. Police inquiry. One of the victims, Abdelkibir Maadour, a Moroccan citizen, went to the complaints office of the principal prefecture and described the incident. The provincial investigations squad prepared report No. 14.985, which was transmitted to investigating magistrate No. 13 in Murcia. A report on the condition of the victims, describing their injuries,

was prepared. The two victims affirmed that they recognized two attackers from among the photographs shown to them. It emerged that the persons identified no longer had the same physical features as in their photographs, thus the possibility of their involvement was eliminated.

109. The incident took place at 2 a.m. in a public park known as a place of male prostitution and of acts of aggression and provocation between Spanish and foreign "chaperos" (homosexuals). The description of the incident has brought to light errors which have no incidence on the inquiry.

(l) Badalona (Barcelona)

110. **Two skinheads robbed and attacked a North African (September 1997).** At 11.30 p.m. two skinheads threatened a North African selling tobacco in Via del Mar with a knife and robbed him of two cartons of cigarettes and 7,000 pesetas. They then insulted him and beat him until the local police arrived and drove them off.

Government reply

111. In the case of Mohamed Anjun Khan, a Pakistan national, bearer of passport No. A-56246, born in Karachi (Pakistan) on 9 March 1960 and residing at 5 Via Sant Cugat, first floor, in Barcelona, who was robbed and attacked by two skinheads, the national police force has only undertaken to carry out the necessary inquiries (No. 6492) and to transmit the results to the investigating magistrate in Barcelona, this because the actual intervention was effected by members of the Barcelona city police, which was responsible for policing of the area in which the incident took place and was called by a number of citizens who had witnessed the incident.

112. Members of the municipal police took Alejandro Izquierdo Gálvez, bearer of identity card No. 46.717.342, to the premises of the national police in Badalona, where he was arrested and charged with an offence of robbery with intimidation, assault on the public highway and usurpation of functions. He was remanded in custody, and the case has been referred to the courts.

(m) Valencia

113. **A skinhead-style group stabbed a Black Portuguese citizen (28.11.98).** Manuel G.N., hailing from Lisbon and aged 33 years, was brutally attacked by a person resembling a skinhead who stabbed him with a knife while threatening him in the following terms: "We do not want either Blacks or Arabs in Spain, so go back to your country". An eyewitness called the police and stated that he had seen the attacker stab Manuel, who had to undergo an emergency operation. This is the second time that Manuel has been a victim of a racist attack; during the previous year he had been beaten and stabbed by two young neo-nazis in Madrid.

Government reply

114. The information concerning the attack on a Portuguese citizen known as Manuel G.N., of Black race, by a group related to the skinheads, who are alleged to have stabbed him with a knife

on 28 November 1998, is as follows: the attack took place on 28 November 1997, and the inquiry into the facts gave rise to complaint No. 5949. The complainant, who claims to be Manuel Gonsals Nums, a Portuguese citizen, is in actual fact a certain John Cook, born on 10 June 1963 in Kepama (Liberia), the son of Bonkue and d'Aba, with no known residence, who has been arrested several times for drug trafficking and breaches of the legislation on foreigners, giving different names and different information on his identity on the occasion of each arrest. In the replies he gave while he was still in hospital, the complainant stated that the incident occurred while he was attempting to come to the assistance of a friend of his without means who had been attacked by two individuals who were on the spot.

115. The inquiries carried out and the statements of the witnesses indicate that the incident occurred following a discussion among four persons - the complainant, his indigent friend and two other persons. The reason for the discussion is unknown, and no type of motive can be excluded, although racism and xenophobia cannot be proved either. The incident occurred in the Carmen district of Valencia. It appears that the discussion began at one place and that the persons involved continued to argue until they arrived at a nearby street, where the person claiming to be Manuel Gonsals was stabbed while the altercation between the four individuals was still going on.

116. In their statements the witnesses gave no information proving that a group of skinhead-style youths was involved, apart from one of them, who said that he had heard xenophobic statements. In fact, there seems to have been a discussion which went on until 2 a.m. in a neighbourhood frequented by the homeless and by drug addicts and in which incidents of this type occur frequently. Finally, in the absence of cooperation from the complainant, it is impossible to make progress with the inquiry for purposes of identifying and arresting the perpetrators and learning their motivations. Once the complainant had left hospital he took no notice of the instructions given by the investigators, who had asked him to report to various departments of the police and the judiciary.

(n) Santander

117. **A well-known Korean national was called a "Chinese bastard" and beaten up (December 1997).** Chang Y.K.B., a Korean national, aged 52 years, an acupuncture practitioner and an international taekwondo umpire, was attacked and violently beaten by a group of six youths, who threw themselves on him shouting "you Chinese bastard, you dirty Chink, we are going to beat the daylights out of you". Although he managed to defend himself against his attackers, thanks to his knowledge of martial arts, he sustained a major injury to his eye which has resulted in a partial loss of visual acuity.

Government reply

118. According to the information supplied, the incident, which involved Mr. Angel Yang Kim Bion, a Spanish citizen of Korean origin, occurred at the door of a bar where a group of individuals were standing. They shouted insults at the victim, who reacted by making unarmed combat gestures (he is a teacher of martial arts and Taekwondo in two secondary schools). These gestures provoked the group into attacking him. After the incident a report identifying the

person who had provoked the attack was drawn up. That person was subsequently tried and sentenced to 22 months' imprisonment and a fine of 210,000 pesetas, to be paid to the victim in respect of his injuries, which took a month to cure

119. Contrary to what is stated in the allegation, the injuries sustained have not had the serious consequences mentioned in the statement. It should also be mentioned that, contrary to the allegations put forward by SOS Racismo, which submitted the complaint, the courts did not make any mention in their judgement of criminal behaviour inspired by racism or xenophobia. The victim had not experienced any other incidents of this type during his 23 years of residence in Spain.

(o) Tarrassa (Barcelona)

120. **The dwelling of a Senegalese family and an Arab butcher's shop set on fire (December 1997).** According to some of the information received, the perpetrators of these two racist and xenophobic attacks appear to have been youths inspired by fascist ideology and connected with the "white and blue" squads which are responsible for the fascist graffiti which have appeared all over the town. The two incidents appeared within the space of a few hours only. In the first case, the entrance to an Arab butcher's shop belonging to a Moroccan national was set on fire; a few hours later, persons unknown set fire to the dwelling of a Senegalese family. Nobody was injured, but the population and a number of associations were disturbed by the presence of xenophobic and fascist groups in the town. A few days later over 200 persons demonstrated to express their revulsion at acts of this kind. However, the municipal authorities consider that such acts are "isolated and sporadic".

Government reply

121. As regards the incidents which occurred in Tarrassa during the month of December 1997, it should be stated that following a complaint filed by Malik Ndiaye and Mor Anton Ndiaye, Senegalese nationals, on 20 December, to the effect that the entrance door to their dwelling had been set on fire, the case (No. 12,359) was referred to the local police station in Tarrassa. The fire caught because the door had been splashed with petrol. According to the complainants, a similar incident had already occurred on 22 November 1997.

122. Following a police inquiry, Abraham Escámez Muela and Jonathan Contreras Martínez were arrested and remanded in custody in connection with case No. 12488, which complemented the earlier file. It should be mentioned that these two individuals have a known record of delinquency but are not members of skinhead groups or other similar groups. In addition, on the same day one of the sons of the couple in question lodged a complaint to the effect that he had been the target of racist insults uttered by youths in the neighbourhood.

123. As regards the complaint forming the subject of case No. 12464, lodged at the local police station in Tarrassa on 20 December 1997, in which Said Assarar, born on 16 November 1964 at Kinitra (Morocco), the son of Mohamed and Fatima, residing at 4 Vía Gregal in Tarrassa, alleged that his halal (Muslim) butcher's shop had been set on fire, it should be pointed out that the damage caused was slight; a 33 cl plastic bottle containing petrol exploded, setting alight the curtain at the entrance to the shop.

E. United States of America

Case 1998/1: Allegations of racism and racial discrimination in the Lewisburg penitentiary (Communication dated 22 September 1998)

124. It has been alleged that on 25 October 1995, 13 inmates at the penitentiary at Lewisburg, including a Mr. Patrick, were beaten without any reason. All the relevant details are supplied in a copy of the lawsuit filed in the District Court for the Middle District of Pennsylvania and dated 17 November 1997. In that copy there is a description of each of the 13 cases of aggression, including that against Mr. Patrick. Mr. Patrick has alleged that he was handcuffed and escorted down a corridor where he was savagely hit on the back of his head, then pushed down stairs. He was then repeatedly punched on his face and body and subjected to racial slurs. He was ordered to lie face down on the floor, which was covered in urine, faeces, blood and vomit, and was forced to stay in that position for many hours. He was then robbed of his wristwatch before being sent back to his cell. Mr. Patrick was then denied medical treatment which he seriously needed. He is currently incarcerated at the penitentiary in Marion, Illinois.

Government reply

Background information

125. On 20 October 1995 the Federal Prison Administration ordered a nationwide lock-down of all federal prisons as a precautionary measure following serious disturbances which had occurred in penitentiaries in various parts of the country. These disturbances were precipitated by the belief, which was very widespread among inmates, that the legislation on drugs was biased against African-Americans and that harsher penalties were imposed for offences involving crack cocaine (reportedly used primarily by African-Americans and other minorities) than for those involving powder cocaine (reportedly used primarily by Caucasians) were aimed primarily at minorities. That belief, together with the fact that they had just learned that the United States Congress had voted to maintain the distinction in sentencing between the two forms of cocaine and that the entire question had received considerable publicity during the "million man march", a major demonstration by African-American men, which had taken place on 16 October. It appears that all those elements taken together triggered the disturbances. Riots broke out in six federal prisons, and in particular on 20 October 1995 in the correctional facility at Allenwood in Pennsylvania, situated about 20 miles from the penitentiary at Lewisburg.

126. The prison in Lewisburg had applied maximum security conditions from 20 October onwards. The administration began partially to restore inmate programmes on 23 October, but was unable to continue on account of a renewal of unrest. Tension continued to rise between inmates and prison staff, the latter having learnt that an event - a collective protest or some other hostile demonstration - was being prepared in the prison. It was decided to remove from the general prison population certain inmates who had been identified as having a disruptive influence.

127. Towards 1 a.m. on 25 October, a number of prison warders arrived at the entrance to one of the dormitory units to take away the inmates who were to be separated from the others. The inmates then began to break lights and windows, to flood the floor with water and to pour liquid

soap on it to make a slippery surface. They also disconnected electric wiring and placed it in the water in order to electrocute prison staff entering the unit. They also set fire to various parts of the building and fired a missile they had put together with tubing at the warders attempting to enter the unit. The prison authorities then concluded that the unit could no longer be kept secure and decided to act immediately to prevent further incidents.

128. The prison administration invited inmates who did not wish to take part in the disturbances to leave the unit, but without result. As the inmates had broken the lights, the prison staff could not see where they were or whether they were armed. They therefore threw tear-gas grenades into the unit before entering. The inmates were then restrained in straitjackets and taken to the clothing warehouse area in the basement of the prison, where they were assembled pending a decision on where to house them subsequently.

129. The disturbance spread to another dormitory unit, and the prison staff proceeded in the same manner as during the first incident. Some 150 inmates were removed from various units and taken to the clothing warehouse. Some of them went quietly, but many of them resisted violently, and several warders were savagely assaulted. Body searches revealed that some of them were carrying home-made knives; the staff also found many weapons in the dormitory. Several inmates were able to break free from their plastic straitjackets and had to be restrained again. The rioters were left under partial restraint in this way until a sufficiently secure unit could be found to house them in. The prison staff spent the rest of 25 October employed in that task, removing inmates who had previously been housed in the selected unit and moving the inmates grouped in the clothing warehouse to the unit thus cleared.

130. The prison officials state that health service staff were on the premises throughout the morning of 25 October to provide medical care for both inmates and prison staff. Inmates were screened for injuries and were taken to the health service unit where necessary. They could also ask for pastoral care and support, since religious services staff were also present. Inmates whose clothing had become wet or contaminated with tear-gas were provided with additional clothing, and those who wished to go to the toilets were taken there. The state of health of all inmates who had been exposed to tear-gas was then checked daily for 14 consecutive days in accordance with federal penitentiary regulations.

Admissibility of allegations of racism and discrimination

131. The Branch et al. law suit (13 complainants, including Mr. Patrick) is still in the pre-trial discovery phase. The prison administration has not yet established all the facts relating to allegations of racism and racial discrimination. The communication referred to by the Special Rapporteur was sent to him at the instigation of Mr. Patrick.

132. While the riot is at least partly attributable to the fact that many inmates believed that they saw a racist bias in sentencing in drugs cases, the information obtained points to the conclusion that the prison staff was not motivated by considerations of race. In the Branch et al. case, eight of the complainants are African-Americans, one a Hispanic and four Caucasians; this would indicate that the rioters were from diverse ethnic backgrounds. The same is true of the prison staff members named in the case, seven of whom are Caucasian, two African-Americans and two Hispanics. The information collected refutes the allegations of the complainants; there

is no evidence that the representatives of the prison authorities acted in a gratuitous or unprovoked fashion and not with the aim of quelling the disturbance. In fact, they were responding to a dangerous situation in which a large number of prisoners were engaging in violent disturbances.

133. The prison administration states that 7 of the 13 complainants, including Mr. Patrick, were in prison for reasons other than drug offences. Mr. Patrick had been sentenced for armed robbery with violence by the court for the District of Columbia. Thus their allegations of racism cannot logically be tied to allegedly discriminatory sentences pronounced in cases of drug offences.

Case 1998/2: allegation of racism and racial discrimination in Green Haven Correctional Facility (Stormville, New York (communication dated 22 September 1998))

134. Mr. Amaker, who is currently detained in Green Haven Correctional Facility (Stormville, New York), alleges that he was beaten on 3 November 1995 with batons and a flashlight in retaliation for writing complaints against the officials of the prison.

135. Following that incident, Mr. Amaker asked for a medical examination, and in particular for an MRI x-ray, which he was denied for two years. Eventually he was examined by Dr. Lester Silver, who said that Mr. Amaker's allegations were lies, covering up the alleged abuses, in violation of the Patients' Bill of Rights. The plaintiff claims that he has suffered serious injury to the head, back, arms, legs and face. He also suffers from psychological disturbances due to post-traumatic stress caused by systematic reprisals and intimidation, flagrant manifestations of racial discrimination and imprisonment for five years in a special unit in the establishment. Mr. Amaker also claims that his religious beliefs (as a Muslim) were not respected, since he was forced to have an anti-tuberculosis injection containing human protein.

136. Mr. Amaker brought an official civil complaint before the United States District Court, Eastern District of New York, on 28 November 1996, but no sanction has been taken against the prison officials.

Government reply

137. Mr. Amaker alleges that after he had made written complaints against officials at the Green Haven prison, he was brutally beaten as a reprisal and was denied medical care. He says that he received serious injuries on the head, neck, arms, legs and face during this incident, which occurred on 3 November 1995; he also alleges that he suffers from psychological disturbances following a traumatism caused by continual punitive and vexatious measures and flagrant racism. He states that he was placed in a special unit of the prison for five years. He also considers that his religious beliefs were violated, since he was forced to take an anti-tuberculosis injection containing human protein. The communication states that on 28 November 1996 Mr. Amaker opened civil proceedings against the prison administration.

138. Mr. Amaker provides no details of his complaints against the prison administration, he does not indicate the date on which he made the complaints or of their content. Nor does he offer any evidence in support of what appears, with the incident of 3 November 1995 and the

denial of medical treatment, to be the essential object of his complaint, namely that he has been continually subjected to punitive and vexatious measures. He offers no explanation, either, of how the anti-tuberculosis injection violates his religious beliefs. Since he complains that no sanction has been taken against the prison staff, we may assume that his suit was found to be without merit. On the contrary, he himself was found to be at fault in the incident of 3 November 1995 and was convicted of assault.

139. The Government of the United States has nevertheless undertaken an investigation into the merit of Mr. Amaker's allegations. Mr. Amarker is currently an inmate of Green Haven prison in Stormville, New York State. He was convicted of murder committed during an armed robbery and had a prior conviction for murder with aggravating circumstances. According to information provided by the prison administration, on 3 November Mr. Amarker attacked without provocation several warders who were taking him back to his cell; some of them received injuries serious enough to warrant immediate medical treatment.

140. Mr. Amaker was sentenced by the Criminal Court of Duchess County (State of New York) to six months' imprisonment for assault, which he is currently serving concurrently with his murder sentence. An administrative disciplinary report for misbehaviour was issued, Mr. Amaker was given a due process hearing and found guilty. He was transferred to a special housing unit where he remained for about 19 months, following which he was returned to the general prison population in November 1998. The prison records state that in October of that year he was under the care of a doctor from the New York State Department of Corrections Services and has been treated by physiotherapy specialists.

Admissibility of allegations of racism and discrimination

141. Mr. Amaker provides no evidence of the "flagrant racial discrimination" which falls within the Special Rapporteur's mandate. On the contrary, all the evidence implies that it was he who initiated the incidents of 3 November 1995 and that it is a purely criminal matter, not an issue of racism or racial discrimination.

Case 1999/1: Allegations of racist violence by New York police

142. It has been reported that on 9 February 1999 civil rights activists and thousands of demonstrators called on the New York Police Department (NYPD) to investigate the shooting of a 22-year-old Guinean immigrant. Ahmed Diallo was killed last Thursday when local police fired 41 bullets at him in his apartment in the Bronx. This is the latest of several cases of apparent excessive use of force by white police officers against unarmed black and Hispanic civilians in recent years.

Government reply

143. No reply has been received to date.

F. Russian Federation

Case 1999/1: Allegations of anti-Semitism

144. The following incidents have been reported:

(a) 21 March 1999: Vandals sprayed anti-Semitic graffiti on the walls of a public school in Orel, which rents space to the local Jewish community for Hebrew classes. After seeing slogans like "kill a Jew" on the walls of the school, Jewish leaders say that they are afraid to continue holding classes there. Jewish Telegraphic Agency (JTA), 21 March 1999

(b) 17 March 1999: Speaking to a crowd of 50,000 supporters, Alsan Maskhadov, the leader of the breakaway republic of Chechnya, blamed "international Zionist centres" for trying to topple him from power. JTA, 17 March 1999

(c) 17 March 1999: Rostov Oblast Prosecutor General Sergei Ustinov refused to bring charges against General Albert Makashov for his anti-Semitic comments on 20 February in Novocherkassk. During his speech at a meeting of the "Movement to Support the Army", General Makashov suggested that the name of the organization should be changed to "Movement against Kikes". RFE/RL Newsline, 17 March 1999

(d) 8 March 1999: A synagogue was vandalized in the Siberian city of Novosibirsk. Vandals sprayed the walls with swastikas and the symbol of the neo-nazi group Russian National Unity (RNU), which resembles a swastika combined with a cross. Vandals also destroyed furniture and tore holy books to pieces. Local police played down the significance of the crime, calling it a childish prank. The RNU is very active in the Novosibirsk region, which is home to 10,000 Jews. JTA, 9 March 1999

(e) February 1999: Borovichi, Russia, has become a centre of a new wave of increasing anti-Semitism in rural Russia. Local Jewish leaders appealed to international monitoring groups to help defend them against an anti-Semitic campaign of terror orchestrated by the RNU. (In response, the Union of Councils for Soviet Jews (UCSJ) mounted an international campaign). Jewish graves have been desecrated, the city has been covered with anti-Semitic posters, and Jews have received mailed death threats. The campaign against the city's 500 Jewish residents began over a year ago when a local fascist group, "Myortvaya Voda", (Dead Water) sponsored anti-Semitic television ads, calling for the good Christians of Borovichi to kill one Jew a day. Local RNU members, whose meeting with local Cossack leaders and military recruiters have been featured on local television, are now organizing the recent wave of anti-Semitic activity. Uniformed RNU leaders are allowed to distribute their propaganda and enlist young members at local schools. UCSJ Press Release and Action Alert, 17 February 1999

Government reply

145. The declarations made by a certain number of militants of the "Movement to Support the Army, the Defence Industry and military research", of "Workers' Russia" and the "Officers' Union" at meetings held in Moscow on 3 and 4 October 1998 led the Public Prosecutor in that city to begin public action under Section 1 of article 280 of the Penal Code of the Russian

Federation (public incitement to changing by violence the constitutional order of the Russian Federation) on 13 October 1998. The inquiry into the facts of the case was entrusted to the Directorate of Federal Security Services for the city and region of Moscow. After verifying the statements made by A.M. Makashov, the Procurator-General began proceedings for a breach of paragraph 1 of article 282 of the Penal Code of the Russian Federation (incitement to hatred on national, racial or religious grounds). Special attention is being given to the investigation of this case.

146. Following the statements made by the Head of Administration of the territory of Krasnodar, M.I. Kondratenko, during the Kuban Youth Forum of 27 February 1988 and those made by V.I. Ilioukhin, Chairman of the Defence Committee (State Duma of the Russian Federal Assembly) during the meeting of the Special Committee of the State Duma on 15 December 1988, the Procurator-General opened an enquiry. Eventually the case was dropped, since the statements of N.I. Kondratenko and V.I. Ilioukhin did not constitute either public incitement to changing the constitutional order by violence nor incitement to hatred on national, racial or religious grounds. Moreover, V.I. Ilioukhin was addressing a small group of members of the Special Committee of the State Duma, and his statement was only made public through the intermediary of the media.

147. The Procurator-General's Department is devoting increased attention to combating political extremism and in particular to the enforcement of Presidential Decree No. 310 of 23 March 1995 concerning coordination of the action of the public authorities to combat manifestations of fascism and other forms of political extremism in the Russian Federation. The highest authorities in the State are kept regularly informed of measures taken in that sphere.

G. India

Case 1999/1: Racist violence against Dalits

148. It has been reported that on Monday, 25 January 1999, about 10 members of the Ranvir Sena, an outlawed landlord militia, attacked Shankarbigha, a village in Bihar. Most of the victims, who were dragged out of their homes and shot at point-blank range, were lower-caste Hindus.

Government reply

149. No reply has been received to date.

H. Islamic Republic of Iran

Case 1999/1: Allegations of anti-Semitism

150. It has been alleged that "theoretically, the 25,000 Jews living in Iran enjoy freedom of worship and are protected by the Iranian Government. Most of them work in the textile sector and have a reasonable economic position. They can also pray in their synagogues and, like the other minorities, have a representative in the Madjliss, the Iranian Parliament".

151. However, reality shows that the attitude of the Iranian authorities towards the Iranian Jewish community is discriminatory.

(a) Although no law actually says so, no Iranian belonging to the Jewish religion can be hired in a public service sector such as teaching, medicine or banking.

(b) Jewish Iranians have to perform two years of military service, but cannot be promoted to the higher ranks in the army or have a military career.

(c) Unlike Muslim citizens, a Jewish Iranian citizen has to undergo an in-depth interrogation and other tests as a sine qua non condition for obtaining a passport.

(d) Iranian citizens belonging to the Jewish religion are the only minority allowed to leave Iran only through Mahrabat International Airport. This restriction is stated in their passports, and this means that the name of the airport alone is synonymous with the word "Jew".

(e) In addition to their family name, all Jewish Iranians have the name "Kalimi" stamped in their passport to identify them as Jews. These two measures are a way of getting around criticism by the international community of evidence of racial and religious discrimination.

(f) Jewish Iranian citizens are strictly prohibited from visiting Israel. They have to sign a document in which they undertake never to go to Israel. Visits to Turkey and Cyprus are automatically suspected as possible visits to Israel. In the event of suspicion, the passports of the persons concerned are immediately confiscated or not renewed.

(g) Persons accused of "spying" are usually sentenced to the death penalty, which is reduced in some cases and commuted to life imprisonment.

(h) The telephones of a number of Jewish Iranian citizens are tapped.

(i) Young Jewish citizens reaching the age of military service cannot leave Iran during the months preceding their call-up.

(j) Jewish schools in Iran are under Muslim management and have consequently lost their Jewish character, as shown, inter alia, by the requirement that Jewish children must go to school on Saturdays (Sabbath).

(k) The most flagrant demonstrations of anti-Semitism and religious discrimination in the Islamic Republic takes place when Jewish citizens are accused of maintaining contacts with their relatives in Israel. These Iranians are then accused of spying on behalf of an enemy country and sentenced to very lengthy periods of rigorous imprisonment and, in some cases, to death.

152. Some examples of these discriminatory practices include:

(a) Parwiz Sasson Yachar, a 50-year-old Iranian Jew, emigrated to Israel with his wife and their four children in May 1990. After deciding to settle there for good in May 1993,

he went back to Iran to sell his property. Arrested on arrival, he was tried in April 1994 and sentenced to death for having maintained links with "Zionism". The sentence was then reduced to life imprisonment and he was ultimately released, this demonstrated that the charges were groundless.

(b) Mekukabed Fisolla, a 77-year-old Jew, was arrested on his way to the synagogue in May 1992. He was accused of "contacts with Zionism" and spying for Israel, whereas he had only been keeping up a correspondence with his family, which had emigrated to Israel a few years before. He was executed in Iran in February 1994.

(c) On 17 June 1996, a 60-year-old Jew, Azizulla Lamé, was hanged in his store in Tehran. The killers said that the Court of Allah had ordered them to hang him.

(d) On 29 December 1996, Hadiat Allahzandahal and Abd El Kassem Magid Abrai, two Iranian Jews, were accused of having tried to organize an anti-Islamic revolution and of spying on behalf of the United States and Israel. They were both hanged.

(e) On 21 June 1998, an Iranian Jew, Rouholla Kadkhoda Zade, who lived in Tehran, was executed by hanging for having been a "Zionist agent".

Government reply

153. No reply has been received to date.

V. FOLLOW-UP TO FIELD VISITS: LEGISLATIVE, JUDICIAL OR OTHER MEASURES TAKEN OR ENVISAGED BY GOVERNMENTS

A. South Africa

154. The South African Government has adopted a number of measures to combat xenophobia and residual forms of racism and racial discrimination. A vigorous campaign and a plan of action based on the theme "Roll Back Xenophobia" has been launched with the aim of reversing the tendency to be hostile to foreigners prevalent in South African society and of making for better coexistence with foreigners. The plan of action was designed by the National Consortium on Refugee Affairs, the South African Human Rights Commission and the Office of the United Nations High Commissioner for Refugees; during 1999-2000 it will be focused on the development of awareness of and education in human rights. **This will be a multimedia campaign including the use of all available forms of communication such as television, print media, radio and the Internet. Other interventions will include workshops for the police and civil servants, educators and journalists; letters and articles written to internal publications targeting the above-mentioned groups as well as newspaper articles and letters to politicians. Intervention for 2001 will focus on expanding on the activities of 2000. The campaign focus will be on hawkers, migrant workers, refugees and asylum-seekers, and the aim will be to facilitate local integration of refugees and migrants in South Africa.**

155. As regards measures to combat racism and racial discrimination, the South African Human Rights Commission has completed a study entitled "Racism, racial integration and

desegregation in South African public secondary schools" which was published in March 1999. It states that, notwithstanding the legislative reforms introduced to eliminate apartheid and better safeguard human rights, the South African school system is still perverted by segregation and racial discrimination. The study observes that:

> "Efforts at racial integration have not achieved the desired results, in part because learners approach school with the prejudices imbued in their home environments and the school has no mechanisms to challenge and stimulate the unlearning of ingrained prejudices, as well as transform the minds of learners. Educators exhibit little or no commitment to constructing a learning environment free from discrimination and prejudice. Too many prefer to deny the existence of racism or presume a superficial tolerance ... Four years since the miracle of '94, school playgrounds are battlefields between black and white schoolgoers. Formally white schools have become theatres of struggle for transformation as Black parents demand access for their children."

156. The study recommends a number of solutions. These include the promotion of egalitarian values throughout the school curriculum and the framing of anti-discriminatory policies for all South African schools. These policies should be directed at the training of teachers, representation of the different racial elements in society in establishments at all levels, the regular holding of seminars on racism, the establishment of ties between a school and the community in which it is located and better involvement of Black parents in the management of schools.

B. France

157. As the Special Rapporteur stated in his report to the General Assembly (A/54/347, para. 66), the French Government has adopted a series of measures designed to implement the recommendations which he made following his visit to that country in September-October 1995. Those measures include a revision of the laws on immigration (Pasqua laws), the granting of entry visas into France to people from the "South" and the procedure for the consideration of the cases of people detained in holding centres.

1. Revision of the laws on immigration

158. The laws on immigration were revised by Law No. 98-349 of 11 May 1998 concerning the entry and residence of foreigners in France and the right of asylum. As regards the entry and residence of foreigners, it offers improved safeguards of the latter's rights, particularly in the following ways:

(a) By requiring the production of reasons for the refusal of a visa to a foreigner in certain cases (members of the family of a European Union national, foreigners authorized to take up gainful employment in France, holders of permission to be reunited with their families, refugees recognized as such by the French Office for Refugees and Stateless Persons), and

(b) By automatically granting temporary residence permits to foreigners entering France for scientific or artistic purposes, proving the existence of personal or family

relationships in France, persons whose state of health requires medical care which they cannot obtain in their own countries and persons to whom the right of asylum has been granted.

159. As regards asylum, the law officially recognizes two types:

(a) It permits the granting of asylum, under the same conditions as the Geneva Convention of 21 July 1951, to any person persecuted on account of his or her activities to promote freedom, even if those persecutions are not inflicted by a State;

(b) It provides for territorial asylum, which may be granted by the Minister of the Interior to persons whose lives or freedom is threatened in their own countries, or who are exposed to treatment contrary to article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

2. Grant of entry visas into France for "people from the South"

160. On this point the French Government states that the general conditions for the issue of visas - both those permitting an extended stay in France and those issued for stays of less than three months in accordance with the Schengen agreements - have been relaxed. This relaxation is the outcome of a firm political determination to facilitate the movement and residence of foreigners in France, and particularly foreigners who have a connection with the country. The new regulations apply to all visa applicants, irrespective of nationality. The principal beneficiaries are nationals of countries of the South, with which France has traditionally had close relations.

161. As regards visas for periods of less than three months, persons who have to come to France frequently can obtain multi-entry visas valid for between one and five years and allowing them to reside in the country for up to three months in any half-year. Applications have also been facilitated by the replacement of the lodging certificate by an accommodation certificate, which is issued without any verification of the conditions under which the applicant will be accommodated.

162. As regards visas for medical care, France's policy is one of admitting persons who cannot obtain care in their countries of origin and have been accepted by a hospital in France. However, the admission of such persons must not give rise to any charge on the budget of the French Government. They are therefore requested either to prove that the cost of the care will be borne by an insurance scheme or some other body or to produce a certificate of prior deposit of the anticipated amount of the cost of hospitalization.

163. As regards the particular case of Algerian nationals, the French Government has just publicly stated its intention to increase the number of entry visas into France from 60,000 to 150,000 - and possibly 200,000 - annually.

3. Procedure for examining the files of persons detained in holding centres and conditions of expulsion

164. The period of detention in a holding centre may not exceed the "time strictly necessary" to arrange the departure of the foreigner. In addition, although the initial decision to place a person in a holding centre lies with the administrative authorities, the judiciary is informed after a period of 48 hours has elapsed and has sole power to authorize that person's continued detention in a centre for an initial period, which initially may not exceed five days but may be extended by a further five days. Thus the maximum period of administrative detention in a holding centre in France is 12 days.

165. As regards the conditions of expulsion of "illegal" entrants, the practice of escorting them to the frontier in groups has been discontinued. In accordance with the recommendations of the Special Rapporteur, the French authorities guarantee respect for the dignity of persons deported and do not have recourse to procedures considered "degrading".

C. Kuwait

166. Following the visit by the Special Rapporteur to Kuwait in November 1996 (see E/CN.4/1997/71/Add.2), the Kuwaiti Government states that the following measures have been taken to apply the recommendations of the Special Rapporteur.

1. Cases of persons illegally resident in Kuwait

167. The Kuwaiti authorities have adopted Decree No. 58 of 1996 to establish a commission responsible for dealing with the problem of foreigners whose presence in the country is undocumented. This decree is the best illustration of the determination of the Kuwaiti Government to provide a definitive solution to this problem. In accordance with the recommendations of the Commission, a number of undocumented foreigners in the country, and in particular the children of martyrs - in recognition of the sacrifice accepted by their parents - and the children of Kuwaiti widows who were married to persons of unknown nationality, have, in the light of their peculiar circumstances and recognized standards in that field, been granted Kuwaiti nationality. The Commission is at present working unremittingly to obtain Kuwaiti nationality for all persons entitled to it under the law.

2. Creation of an agency for the recruitment and placement of foreign skilled and unskilled labour

168. A directorate for domestic staff has been established in the Ministry of the Interior. Its principal tasks consist of enforcing the provisions and rules laid down in the legislation on the organization of recruitment agencies for domestic workers and to receive applications for work permits from recruitment agencies for foreign domestic workers. It is also empowered to watch for breaches of the law, to prepare reports on agencies and individual workers who breach the law and where necessary turn them over to the competent authorities for the adoption of appropriate measures.

3. Improvement of the conditions for the detention and deportation of persons who have committed breaches of the law

169. The Kuwaiti authorities strictly apply all the international rules governing places of detention, and in particular those relating to the nature of meals, the rations served to detainees, the space which each detainee should enjoy and necessary medical treatment. In addition, surveillance in places of detention has been strengthened to prevent any abuse on the part of prison staff. The authorities have also opened the doors of places of detention to representatives of international organizations to enable them to inspect the conditions under which detainees are held. Furthermore, they have taken all necessary measures to ensure that no one is deported from Kuwait without having received all his entitlements.

4. Adoption and enforcement of legislation or a uniform labour code in conformity with international instruments

170. The competent authorities have drawn up a new labour code in cooperation with a commission consisting of representatives of the social partners (Government, workers and employers). Within this process the technical assistance of the International Labour Office was requested; the latter's experts cooperated in the preparation of the final text of the draft. It is thus clear that the Kuwaiti authorities have spared no effort in securing the promulgation of a new labour code and have taken particular care to ensure that its provisions are in line with the international instruments ratified by Kuwait.

5. Ratification of international human rights instruments and in particular the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

171. The Kuwaiti authorities wish to reaffirm in this connection that the State of Kuwait has acceded to most of the international human rights instruments. Certain instruments are still under study; one of these is the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which is at present being examined by the competent authorities. That being said, the rights enshrined in the Convention are already protected in Kuwait by the law and the courts.

VI. CONCLUSIONS AND RECOMMENDATIONS

172. All the events recounted above indicate that manifestations of racism, racial discrimination and related intolerance are continually occurring in different regions of the world. In addition to the cases of xenophobia and anti-Semitism, the Special Rapporteur notes that discrimination against the Roma still exists in several European countries, where they are subjected to exclusion and marginalization. It would be desirable for the Commission on Human Rights, in cooperation with the Governments concerned, to devote particular attention to the Roma in order to secure their integration in the countries in which they reside; the measures taken to assist them should be focused primarily on the improvement of the teaching and the vocational training they receive and on the development of awareness of differences and of tolerance among the majority population groups.

173. The Special Rapporteur remains concerned at the discriminatory manner in which the death penalty is applied in the United States of America and hopes that the advent of a new millennium will also offer an opportunity for that great country to envisage penal sanctions more in line with the international human rights standards and with the prevailing tendency, which is towards the abolition of capital punishment. He is delighted that most of the countries he has visited, like France, Kuwait and South Africa (to mention only countries referred to in this report), have given effect to his recommendations by adopting appropriate measures to check the development of racism, racial discrimination and xenophobia. He hopes that those States which have not yet reacted to his recommendations will inform him of the follow-up action taken on his missions in order to contribute to the satisfactory performance of his mandate.

174. The Special Rapporteur hopes that the Commission will continue to give priority to the preparation of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which should create a place of primary importance for education in the rights of the human person and the culture of tolerance, peace and non-violence.

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RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF RACIAL DISCRIMINATION

Report by Mr. Glèlè-Ahanhanzo, Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, submitted pursuant to Commission on Human Rights resolution 1998/26

Addendum

Mission to Hungary, Czech Republic and Romania (19-30 September 1999)

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Introduction

1. Pursuant to Commission on Human Rights resolutions 1993/20 of 2 March 1993 and 1999/78 (III) of 28 April 1999, and with the agreement of the Governments concerned, the Special Rapporteur carried out a regional mission in Hungary, the Czech Republic and Romania, from 20 to 30 September 1999. This mission was motivated by the allegations the Special Rapporteur had received of systematic discrimination (particularly in education, employment and housing) against the Roma citizens of these countries and the frequent acts of violence against them by members of extreme right organizations and the police (E/CN.4/1999/15, paras. 80-87). The Special Rapporteur was particularly alarmed by the plan of the municipal council of the town of Ústi nad Labem in the Czech Republic (northern Bohemia) to build a wall down a street in order to separate Roma homes from those of the other inhabitants.

2. The endemic situation of racism and racial discrimination against the Roma in Central and Eastern Europe led as from 1997 to a mass exodus, particularly from the Czech Republic, Slovakia and Romania, to seek asylum in Germany, Belgium, Canada, France, Finland and the United Kingdom. In order to curb the mass arrivals of Roma, Canada and Finland then reintroduced entry visas for nationals of the Czech Republic, Slovakia and Romania, while the United Kingdom for its part threatened in September 1999 to reintroduce visas for nationals of the Czech Republic if no solution was found to the influx of Roma asylum-seekers.

3. As a result of the reintroduction of visas in some countries, combined with the fear that the situation of the Roma might prove an obstacle to joining the European Union, which would entail the need to meet EU criteria for human rights and protection of minorities, the Governments of central and eastern Europe have given the matter careful thought. With financial support from the European Union and the help of a number of initiatives by the Organization for Security and Cooperation in Europe (OSCE Supplementary Human Dimension Meeting on Roma and Sinti Issues), ways are now being sought of improving the integration of the Roma in those countries.

4. The Special Rapporteur first visited the Czech Republic (20-22 September), then Romania (23-26 September) and finally Hungary (27-30 September). These countries were selected solely for illustrative and comparative purposes and owing to insufficient human and financial resources and time and not because the situation of the Roma there is more unusual than in other countries of the region, or even western Europe. The sections of this report follow the chronological order of the mission and not the alphabetical order of the countries visited.

I. CONSULTATIONS IN THE CZECH REPUBLIC

5. During his visit to the Czech Republic (20-22 September), the Special Rapporteur met leading representatives of the Czech State in Prague, including Mr. Martin Palous, Vice-Minister of Foreign Affairs, Mr. Pavel Tychetsky, Deputy Prime Minister and Chairman of the Legislative Council, Mr. Jaroslav Kopriva, Vice-Minister of the Interior, Mr. Alois Cihlar, Vice-Minister of Justice and Mr. Petr Uhl, Government Commissioner for Human Rights; he also spoke with Ms. Marie Benesova, Chief State Attorney. The Special Rapporteur held consultations with representatives of the municipal council of the towns of Usti nad Labem and Brno and with representatives of non-governmental organizations. He also met representatives

of Roma and human rights organizations. He received assistance from Mr. Andreas Nicklish, Director of the United Nations Information Centre in Prague. A list of contacts is given in the annex to this report.

6. The Special Rapporteur wishes to thank the Czech Government for the consideration and the spirit of cooperation shown by its representatives both prior to and during his visit. He also wishes to express his gratitude to the representatives of non-governmental organizations who were kind enough to furnish information and his thanks to the Director of the United Nations Information Centre for his kind assistance.

A. Overview

7. After the Velvet Revolution of 1989, the Czech Republic opted for a democratic regime and undertook reforms in order better to guarantee human rights. Since 1991 it has had a Charter of Fundamental Rights and Freedoms, article 1 of which sets out the principle of the equality of individuals in their dignity and their rights. The Czech Republic is the successor of the Czech and Slovak Federal Republic, which ratified the International Convention on the Elimination of All Forms of Racial Discrimination in 1966, and became a Party to the Convention, which it directly incorporated into its legislation. Despite the ratification, the Czech Republic has not yet adopted legislation prohibiting all forms of racial discrimination.

8. The Czech Republic is also a Party to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights and several other international human rights instruments. Where Europe is concerned, the Czech Republic ratified, inter alia, the European Convention on Human Rights in 1992 and the framework Convention for the Protection of National Minorities in 1997.

9. The democratic reforms did not, however, have a beneficial effect on all components of the Czech population, particularly the Roma; this minority remains exposed to racial discrimination, which is manifested particularly in access to employment, housing and education. The Roma are often excluded from restaurants, swimming pools and discotheques and kept at a distance by the majority of the population, who are prejudiced against them. Violent racist acts by skinheads against members of the minority are common.

10. In the 1991 census, 33,000 persons described themselves as Roma. The law does not oblige individuals to declare their ethnic group but the authorities consider that because of the fear of persecution that persists in the collective memory of the Roma since the Nazi extermination and as a result of the policy of enforced assimilation under the Communist regime, many Roma prefer not to declare their origins. According to official estimates, there may be between 166,000 and 206,000 Roma, although a number of those questioned unofficially put their numbers at 300 or 400,000.

11. The largest group, numbering approximately 170,000, is the so-called Slovak Roma (also called Czechoslovakian or Ukraine-Slovak or "Romungro", i.e. Hungarian Roma). They speak dialects that are very close to the Romany language of eastern Slovakia, which is basically codified. The second largest group, called the Vlax (Vlaxiko) Roma, has about 18,000 members speaking a different dialect. The Vlaxiko Roma led a nomadic life until 1959. Other ethnic

groups had already been settled since the seventeenth century. The third group is made up of Hungarian Roma, whose mother tongue is Hungarian. These number approximately 15,000. Only remnants of the strongly assimilated Czech and Moravian Roma survived the Nazi genocide and only some 100 Sinti (German Roma), who were also annihilated, remain. In recent years the presence of Roma from the countries of the former Yugoslavia, Romania and the former Soviet Union has been recorded in various places in the Czech Republic. They do not have permanent residence.

12. Following the break-up of Czechoslovakia, the 1993 Act on Czech nationality had the effect of depriving a large number of Roma living on Czech territory of their nationality, with the inclusion in the Act of conditions which some consider discriminatory, particularly vis-à-vis the Roma. The law distinguished between former Czechoslovaks who possessed Czech citizenship and those who possessed Slovak citizenship. In order to gain Czech citizenship, the latter were required to present documentary proof of permanent residence and to prove that they had had no criminal record for the previous five years. The discriminatory aspects of the law were amended by Act No. 194/1999, which came into force on 2 September 1999. The new Act did away with the provisions requiring a clean record. The effects of this law along with racial violence, however, had led many Roma to seek asylum in Canada, Finland and the United Kingdom and in other European countries, on the grounds that they were exposed to racial discrimination.

B. Forms and manifestations of discrimination against the Roma

13. Both the Czech authorities and the representatives of non-governmental organizations and Roma community associations admit that the Roma continue to be the victims of intolerance and discrimination in various forms, particularly in employment, education, housing and access to public places. They are also exposed to the violence perpetrated by members of extreme right-wing organizations, or skinheads.

1. Discrimination in employment

14. Under the Communist regime, the majority of the Roma, who had been sedentarized by force, had received rudimentary training allowing them access to manual jobs. In the countryside they worked on State farms. With the introduction of the market economy and the restoration of private property, the restructuring of industry and the disappearance of public work sites, large numbers of Roma found themselves out of work for lack of the necessary skills to meet market needs but also because of prejudices against them and discrimination on the part of employers. Some employers consider them to be "lazy" or "irregular in their jobs", so that even when they have the necessary qualifications, they are not hired. In its 1997 report, the Council of Nationalities states that 70 per cent of Roma are unemployed and that this figure is as high as 90 per cent in some areas, while the general unemployment rate is 5 per cent.

2. Discrimination in education

15. The education system tends to relegate Roma children to "special" schools, considered by some to be institutions for the mentally handicapped or for children suffering from what is regarded as asocial behaviour. The Government estimates that 70 to 80 per cent of Roma children attend institutions of this type. As a result, a large number of Roma children leave

school without primary school qualifications, since education completed at special schools is not considered as completed primary education, nor is completion of a grade lower than eighth. Uncompleted primary education makes studies at secondary school impossible and even precludes attainment of a qualification in regular apprenticeship. The lack of qualifications among adult Roma is one of the main reasons for their difficulties finding jobs, their dependence on social benefits, and the general marginalization of the entire Roma community. Over time, this "parallel" system of education has separated Roma children from the majority of Czech children from their earliest age, which is hardly conducive to social harmony between the different components of the Czech population.

3. Racial prejudice and cases of racial discrimination

16. Over and above economic and social factors, the situation of the Roma is the result of age-old prejudices which are widespread among the population and of certain practices by State officials. The Roma are generally regarded as "dirty", "noisy", "thieving" and "lazy". While some Roma do resort to crime to meet their needs (mainly in the form of theft, receiving stolen goods and prostitution), the Roma population as a whole is considered to be criminal, or even naturally or genetically predisposed to crime. The media contribute to propagating an image that is extremely damaging to the integration of the Roma minority.

17. For most Czechs it is impossible to reconcile aspects of the Roma way of life and culture with the majority culture (the persistence of nomadism to some extent; a traditional way of life in which the community, under the authority of a patriarch, takes precedence over the individual; early marriage of Roma children; the status of girls and women who have no formal education and are primarily destined for marriage). Somatic differences (the Roma seem to be darker-skinned than the rest of the population) may also lie at the root of the psychological and physical distance between the Roma and the majority of the population. The Roma for their part mark their own distance from the majority, who are referred to as gadjo (which means "white" but in a pejorative sense).

18. On occasion Roma are not served in restaurants or are not allowed into discotheques. Discotheque owners bypass the law by putting up a sign to the effect that their establishment is a private club for members only. When Roma apply for membership, however, they generally obtain no reply.

4. Racist violence

19. Anti-Roma violence comes primarily from extreme right-wing movements. Several extreme right-wing groups have been active in the Czech Republic since 1990 (there are 5 to 6,000 estimated skinheads). They organize street parades, meetings and concerts and attack the Roma, Jews and foreigners both verbally and physically. These organizations also circulate racist publications.

20. It was between 1990 and 1993 that racist violence caused most victims, but since the Government had not paid any attention to the phenomenon, the data are not exact. The authorities believe that 11 out of every 13 persons who have died in racist attacks since 1990 are Roma. The most tragic cases are the following:

(a) In September 1993, in the town of P'isek in southern Bohemia, a group of skinheads pushed four Roma into the River Otava, then stood on the bank and threw stones at them to prevent them landing on the shore; one of the Roma, Tibor Danihel (aged 18) drowned. There were numerous irregularities in the inquiry into this incident. To begin with, of the 19 skinheads accused, only 4 were sentenced, but only for voluntary manslaughter. An application for judicial review brought the case back to the courts and in 1998 the principal aggressors were tried for racist murder. In January 1999, the High Court set aside the judgement for formal procedural reasons. The Minister of Justice filed an application for judicial review of this decision by the High Court; on 27 May 1999, the Supreme Court referred the case to the High Court to rule on the appeal. In its effective ruling of 30 June 1999, the High Court in Prague extended the sentence originally imposed on defendant Chumacek to 8 years and 8 months of imprisonment, on defendant Pomyje to 6 years and 6 months, and rejected defendant Halich's appeal against the length of his prison sentence;

(b) In October 1993, in Radek nad Nisou (northern Bohemia), Milan Holub (aged 21) was shot dead during a fight with two men, one of them a skinhead. The two men reportedly provoked the fight by making the Nazi salute. The young Rom then punched one in the face, whereupon the latter fired. The court released the gunman in 1995 on grounds of self-defence. The High Court rejected the appeals by the representative of the State in a decision of 13 August 1997;

(c) In May 1995, Tibor Berki (aged 42) died during a skinhead attack in Zdar nad Sazavou (eastern Bohemia); his attacker was sentenced for murder. This murder led to a reversal of public opinion concerning racist acts and was behind government measures to combat them.

21. In 1998, official statistics indicated that 133 racially-motivated crimes had taken place and that 184 persons had been sentenced. These crimes include both physical and verbal attacks and incitement to racial hatred. The following cases may serve as illustrations.

(a) On 15 February 1998, in Vrchlabi (eastern Bohemia), two skinheads threw Helena Biháriova (aged 26) into the Elbe. She was drowned despite the assistance of a journalist who jumped into the river to save her. On 29 September 1998, one of the accused was sentenced to eight and a half years and the other to six and half years' imprisonment, not for a racist crime but for blackmail resulting in death;

(b) In May 1998, three Roma were attacked by a group of skinheads in Orlová (northern Moravia). One of them was kicked unconscious and left lying on the road where he was run over by a car. The court of the district of Karviná only gave the perpetrators suspended sentences for attempted violence leading to incapacity for work;

(c) On 17 May, in Karviná, a Rom named Milan Lacko was attacked and beaten by four skinheads who left him for dead on the road. He was run over by a lorry and died of his injuries on 26 October 1998.

22. Several of the persons to whom the Special Rapporteur spoke maintained that racist crimes were not punished as they should be, with the result that many racist crimes were not reported to the police because the victims had no confidence in the justice system.

23. The Government says, however, that the law has become more strict since 1 September 1995. Racist motivation has been included in the definition of several offences, such as murder, violence causing death, mutilation or incapacity for work, blackmail or damage to property - leading to such offences being more severely sanctioned. Similarly, harsher penalties apply to offences involving racism and xenophobia, including defamation of the nation or race and incitement to racial hatred.

C. The Ústi nad Labem wall

24. The case of the Ústi nad Labem wall clearly illustrates the tensions between the Roma and the majority population. In the autumn of 1997, the district of Nestemice and the municipality of Ústi nad Labem started planning to build a four-metre high wall to separate housing inhabited for the most part by Roma (30 families, i.e. 130 persons living in two blocks of flats) from that of the non-Roma inhabitants of Maticni Street, who lived in four houses on the other side of the street. Originally, the wall was supposed to have a single opening, which would have impeded the free passage of the Roma inhabitants, while the existing barrier has two openings. The municipality and the district council justified the measure on the grounds of neighbourhood problems between the two groups of residents. Roma children allegedly were too noisy until late at night; Roma families who lived off the recycling of old goods had piled up large quantities of unusable objects; some Roma reputedly took drugs and practised drug-dealing; non-Roma residents were said to have been attacked by the Roma, while the latter complained that they had been insulted by the former. Efforts at reconciliation led to the place being cleaned up but did nothing to remove tensions.

25. The Czech Government stated that it regarded the municipality's plan as both serious and disquieting; the project was a breach of human rights, above all of human dignity and the equality of individuals before the law without regard to social origin, membership of an ethnic group or wealth. The Government asked its human rights delegate to negotiate with the municipality to ensure that the human rights of the Roma were strictly respected. It wanted to be informed of the results of those negotiations before the wall was started. It would then consider the various viewpoints before it undertook the necessary legal steps to annul the municipality's decision in the event that plans to build the wall appeared to be going ahead.

26. The Roma residents, who set up the Romská duha (Roma rainbow) association, along with other Roma associations and human rights organizations, put pressure on the municipal authorities and the district council by bringing the wall project to the attention of the media. A petition containing 300 signatures was sent to the Government.

27. Despite the reservations expressed by the Government and Roma opposition, the municipality and district council on 15 September 1998 maintained their decision to build the wall, but decided to lower it to 1.8 m and make provision for three openings, claiming that the wall was for soundproofing purposes. As a result, after negotiations with the local authorities, the local government representative or district Director (the equivalent of a prefect) suspended the decision of the municipality and district council on 29 June 1999 for infringement of article 10 of the Charter of Fundamental Rights and Freedoms. The decision was then submitted to Parliament, which has jurisdiction over the acts of local authorities.

28. Before going to Maticni Street, the Special Rapporteur talked to Mr. Ladislav Hruska, the Mayor of Usti nad Labem and to Mr. Pavel Tosovsky, the Mayor of Nestemice district. The municipal authorities regretted that the affair of the Usti nad Labem wall should have become so inflated because of the political capital that some people were trying to make out of it and the importance the media had given to the event. For them it was simply a matter of building a wall to reduce the noise and other nuisance mentioned by the Roma's neighbours and not in any way to shut in or isolate the Roma. They said that both parties had been consulted before the decision to build the wall and had given their consent. The Special Rapporteur talked to the representatives of the Roma and to non-Roma inhabitants on the spot in order to hear their complaints and encourage dialogue. The Roma said that they had never at any time been consulted and the non-Roma inhabitants reiterated their critical comments.

29. The Special Rapporteur has since been informed that despite the measure to suspend construction, the municipality and council began building the wall on 5 October 1999 and completed it on 13 October. The same day, the Chamber of Deputies ruled against the decision by the municipality and the district council and asked the Government to continue negotiations with the local authorities with a view to dismantling the wall or seeking satisfactory solutions for the parties concerned. Based on talks between the Usti nad Labem Municipal Assembly and Government-appointed Commissioner Pavel Zarecky, the Municipal Assembly decided on 23 November 1999 to remove the wall. The Government has released a special-purpose non-investment subsidy of CZK 10 million towards addressing the problems of inter-ethnic coexistence in the Nestemice District.

D. Measures taken by the Government and the local communities

30. The Czech Government's readiness to recognize the facts already constitutes vital progress towards solving the problems confronting the Roma. The authorities encountered throughout the visit showed great openness and a desire to cooperate and find appropriate solutions. They replied to the Special Rapporteur's questions without prevarication and furnished him with the relevant documentation. To judge from the reports already submitted to the Committee on the Elimination of Racial Discrimination (CERD/C/289/Add.1) and to OSCE and the Council of Europe, it would appear that the Czech Government has shown great objectivity with regard to the Roma problem.

31. In its 1997 report to OSCE on the situation of the Roma community in the Czech Republic, the Government said in substance that relations between the Roma community and the majority of the population were increasingly affected by inter-ethnic tension, which had an adverse effect on all sectors of society. Resolving the problems facing the Roma while preventing inter-ethnic conflict on the part of the majority emerged as one means of alleviating this tension. It had therefore adopted a plan of action in 1998 entitled "Ground concepts of Government policy towards members of the Roma community with a view to facilitating their integration into society". This document proposes a series of legal and institutional measures intended to eliminate discrimination against the Roma in all spheres (economic, social, political and educational, etc.) and to promote their culture with a view to better integration.

32. The Czech Government's basic position is that the integration of the Roma as a national minority is absolutely necessary. At the same time, the Government realizes that the majority of

Czech citizens are able and willing to admit Roma among them provided that they assimilate with the majority and integrate into it. The Government presumes that each citizen has the right to such integration into Czech society. In fact, each Roma citizen decides what the degree of his/her assimilation will be for his/her whole life. However, this choice has to be free. Everybody has the right to decide about his/her nationality and all methods of compulsion, including indirect methods aiming at denationalization, are prohibited pursuant to the constitutional Charter of Fundamental Rights and Freedoms.

33. The measures which the Special Rapporteur has particularly noted include the bill on the prohibition of discrimination on grounds of race, nationality, ethnic origin and colour and the establishment of a body to supervise enforcement; measures referred to as equality measures (affirmative action) as found in other countries; measures to eliminate racial discrimination in education, employment and housing; and measures to promote Roma culture and encourage tolerance.

1. General Act on racial discrimination

34. The Government intends to submit a bill to Parliament prohibiting all forms of racial discrimination. Such a law will clearly define discrimination within individual spheres of life and will determine sanctions for discrimination.

2. Equality measures

35. The Czech Government will undertake measures to achieve equality by 2020. These actions will focus on citizens in a situation precisely defined by the Government and will not be limited only to members of the Roma community. The actions will cover access to education and higher qualifications for members of the Roma community and for individuals from similarly affected groups. In its actions the Czech Government will make use of special classes, preparatory classes and courses, extra pay for teachers who work individually with students in such groups, remunerated additional instruction, scholarships for Roma students and certain preferential treatment of Roma companies in placing orders. However, the Government will not use quotas determining the percentage of Roma in public administration, the police, or among applicants admitted to schools.

36. At the same time, within the scope of such additional education and training activities, the Government does not want to give preferential treatment only to members of the Roma community, nor does it intend to favour all members of the Roma community. Criteria for selection of those who would benefit from the equality measures will be specified so as to include all persons in need, irrespective of nationality, race, ethnic origin, etc. Terms already in use, such as: "persons that are difficult to place on the labour market", "children with specific educational and training needs", etc. will be defined; the equality measures will be directed at groups defined in that way. About 80 per cent of persons to whom the equality measures will apply will be members of the Roma community and at least 70 per cent of the members of that community will need such specific help.

3. Educational measures

37. The Government will introduce changes in the educational system in order to ensure that Roma children are as successful as others. In order to achieve this goal, it will use various methods, including dismantling language barriers, preparatory classes, using the Romany language as a supplementary teaching language, employing Roma assistants at schools and, in particular, taking an individual approach to students. The system by which a large majority of Roma children pass through special schools and are thus assigned to the least qualified work for the rest of their lives will be replaced by a system of flexible and equality-directed classes at elementary schools with a smaller number of pupils than in normal classes. Roma adults will be given the possibility to complete elementary education and/or obtain additional education.

38. Preparatory classes, the presence of Roma assistants at schools and equality-oriented classes are creditable methods. However, what is most important is individual care, which requires fewer students in classes and special preparation of teachers. In order to achieve such individual care, it is necessary to provide additional training for teachers and to reduce the number of students, particularly in the early grades. Pedagogical and psychological advice centres will decide which children are having educational and training difficulties. In the first phase experienced teachers from special schools who have acquired special education and experience with individual care of children could be recruited to teach at elementary schools.

4. Measures to promote Roma culture and encourage tolerance

39. The Government recognizes the Romany language and culture as incontestable cultural values of Czech society. The Romany language and culture will be given more attention since up to now they have been neglected. Both main dialects of the Romany language, i.e. Eastern Slovak and Vlachiko, and the Roma and Vlachiko-Roma cultures will enjoy State protection as well as State support. Knowledge of Roma culture and history, as well as the culture and history of other national minorities, will be incorporated in the general education of all children.

40. Assimilation approaches (also adopted by part of the assimilated Roma) pertain to the society which is in a majority. Therefore, the whole of Czech society should be informed about Roma culture and history, primarily through school lessons. Information on Roma history and culture should be included in textbooks and lectures. However, it is necessary to pay adequate professional attention to the Romany language and culture. Although three Czech universities teach the Romany language and Roma studies, and professionals who will be able to further develop Roma studies prepare at those universities, the subject does not have institutional backing and the necessary funding.

41. The Government will ensure that education and training at all schools will be multicultural, that it will be education for tolerance, and that the objective of such education will be a multicultural society. Education and training in State and State-subsidized schools remains monocultural; at school, children learn only about the history and culture of the Czech nation, where they learn about the history and culture of other nations, these are usually large nations that have their own States. If the information is in some way related to the Czech nation and State, it is usually tendentious and one-sided.

42. Children learn about minorities that have been living on Czech territory for centuries only episodically and pupils learn almost nothing about the Roma in school. However, knowledge of the culture of people living on the same territory is probably best for an understanding of other cultures. In all cases, knowledge of other cultures helps to create a positive or neutral approach, which in turn eliminates prejudices and xenophobic and hostile attitudes. Successful education for tolerance may in the future render the anti-discrimination measures currently in force redundant.

43. Education for tolerance, like information about national minorities, cannot become a separate subject. On the contrary, education for tolerance should permeate all subjects; students should learn about the history of national minorities in their history lessons, just as they should learn about specific historic periods affecting national minorities, about their literature, etc.

44. While the languages and cultures of other national minorities living in the Czech Republic have their roots at least in foreign countries, the Romany language and culture do not have such an advantage. If the Czech Republic wants to enable the Roma to retain and develop their culture, it has to ensure material support and staffing.

45. The Government will encourage a search for forms of coexistence between different ethnic groups for the settlement of conflicts through negotiation and research into attitudes. It will support research to discover why in some regions with a large concentration of Roma there are no problems with coexistence, while in others, despite their relatively small concentration, such problems do occur.

46. Up to the present time there is insufficient knowledge about the coexistence of the Roma community with other inhabitants. Research that has been carried out so far has been mostly descriptive: to describe specific facts in a specific locality and at a specific time. Sometimes, beyond the scope of a particular mission, results have been supplemented by recommendations for further action. No actual research describing the structure of the Roma community, the behavioural patterns of individual groups, or ways of achieving non-problematic coexistence, have been undertaken. At the same time, it is a known fact that in some places the coexistence of Roma and the majority population is good, for example in Cesky Krumlov.

5. Measures to improve Roma participation in decision-making processes

47. The Government will ensure the involvement of Roma in decision-making concerning affairs of the Roma community, particularly by creating conditions for the democratization process among Roma that will allow for actual democratic representation. Democratically elected Roma representatives can be the same as Roma representatives elected to cultural self-administration committees within the State.

48. The Roma have founded several political parties and movements and have grouped themselves into several dozen civic associations. Representatives of those parties, movements and associations want to speak on behalf of all Roma and seek participation in decision-making on all issues relating to the Roma community.

6. Measures to increase Roma security

49. In order to increase the security of the Roma community, the Government will provide occasional and regular training on racism and Roma for judges and for all officials involved in criminal procedures, as well as for public officers.

50. Regulations, judicial rulings and directives of the public prosecutor's office must give definitions of some terms (such as race, nationality, xenophobia, racist, xenophobic or nationalistic grounds, violence based on racism or xenophobia), so as to enable less experienced investigators, public prosecutors and judges to avoid mistakes.

51. In addition to the measures described above, the Czech Government has introduced institutional reforms intended to coordinate the activities of all ministerial departments on behalf of the Roma. An interdepartmental Commission on community affairs was established in 1997; it is chaired by the Commissioner for Human Rights of the Czech Republic, and includes, inter alia, representatives of the Ministries of Education, Labour, Health, Culture, Social Affairs and the Interior, along with 12 representatives of the Roma community. The Commission supervises the implementation of the Government's plan of action for the Roma.

52. Initiatives inspired by the government project have been taken locally, as in the case of the city of Brno in Moravia, which has drawn up a strategic plan to improve inter-ethnic relations between the majority population and the Roma minority. This plan is aimed at the integration of the 16,000 Roma in the city, and includes educational and vocational training projects, cultural projects (theatre, publication of Romany language periodicals, production of a CD of Roma music), projects for improving Roma living conditions, and the building of a museum of Roma culture. The Special Rapporteur visited Roma House, which is a meeting and activity centre, providing educational support and vocational training for Roma, furnishing advice and psychological support to persons in need and also offering recreational facilities for children of Roma families. The Centre also supports a housing renovation project, which the Special Rapporteur visited, and plans to set up a basket-making centre, this being a traditional Roma activity. The local government also employs a Roma adviser to help in designing and implementing its projects.

53. In 1995 a new general ordinance was issued, requiring representatives of the Public Prosecutor's Office to initiate proceedings for offences motivated by racial hatred. The police established a special department to combat extremism and its activity is probably reflected in the increasing number of racist offences recorded. Although the machinery of justice shows slightly more severity than in the past towards racist crime, the investigation of such cases and the initiation of proceedings against their perpetrators face many obstacles. It is possible that prejudice against the Roma may be a factor, although that is very hard to prove.

E. Action by civil society

54. Several non-governmental organizations and community associations provide legal or social support to the Roma in an effort to find solutions to their problems. The Roma Movement concerns itself with child education; it organizes seminars on the problems involved in educating

Roma children. In 1997, the R-Mosty civic association initiated a campaign in Prague schools on the subject of "Education for tolerance and against racism". Many talks on the subject have been given in schools.

55. The Prague Human Rights Documentation Centre keeps watch over the activities of extreme right-wing movements, records racist crimes and informs the police. The European Roma Centre, a regional non-governmental organization, has been conducting in-depth studies of the various manifestations of racism and racial discrimination in the country and furnishes legal aid to victims. The Centre has led an unremitting national and international campaign against the building of the Ústi nad Labem wall and in November 1999 filed a complaint on behalf of the inhabitants of Maticni Street against the town authorities.

56. In June 1999, the Centre also filed a complaint with the Constitutional Court against the municipality of the town of Ostrava and the Ministry of Education for segregating Roma children in special schools for the mentally handicapped.

II. CONSULTATIONS IN ROMANIA

57. The Special Rapporteur visited Romania from 23 to 26 September 1999. In Bucharest he had conversations with senior officials and civil servants, including Mr. Péter Eckstein-Kovacs, Minister for national minorities, Prime Minister's Office, Mr. Jósef Kótó, Secretary of State, Ministry of Education, Mr. Cristian Diaconescu, Director of Legal and Consular Affairs, Ministry of Foreign Affairs, Ms. Romanita Vrinceanu, magistrate, Deputy General Secretary, Ministry of Justice, General Lazar Carjan, Chief, General Police Inspectorate, Ministry of the Interior, and Mr. Vasile-Gabriel Nita, Director, Police Research Institute on delinquency and prevention. The Special Rapporteur also met representatives of national human rights institutions, including Mr. Martian Dan, President of the Parliamentary Commission on Human Rights, Religious Denominations and National Minority Groups of the Romanian Parliament, and Mr. Mircea Moldovan and Ms. Ruxandra Sabareanu, deputies of the Ombudsman. He had working meetings with Mr. Winston Temple, Resident Representative of the United Nations Development Programme and Mr. Ushiro Tsuchida, representative of the Office of the United Nations High Commissioner for Refugees. In Bucharest the Special Rapporteur met the representatives of several Roma community associations and non-governmental organizations. He also visited Mr. Florin Cioaba, King of all Roma, in his residence of Sibiu in central Romania. The Rapporteur also spoke to representatives of Roma community associations and organizations for the defence of human rights or the rights of the Roma in particular. He visited the Romanian Institute for Human Rights where he talked to the director, Ms. Irina Moroianu Zlatescu and her team. A list of the main persons whom the Special Rapporteur met is given in the annex to this report.

58. The Special Rapporteur thanks the Romanian Government for its welcome and the cooperation it furnished during his visit to Romania. He is also grateful to the representatives of UNDP and UNHCR for their logistical support and the information they provided. He thanks the representatives of national human rights institutions and the representatives of Roma community associations and non-governmental organizations who were kind enough to meet him and supply information.

A. Overview

59. After the 1989 revolution, which brought an end to the dictatorship, Romania undertook legislative and institutional reforms with a view to building up a democratic State under the rule of law, which would protect the human rights of Romanian citizens in general and of national minorities in particular. The Constitution adopted in 1991 provides that "Romania is the common and indivisible homeland of all its citizens, regardless of race, nationality, ethnic origin, language, religion, sex, opinion, political allegiance, wealth or social origin" (art. 4 (2)). Similarly, "the State recognises and guarantees to members of the national minorities the right to preserve, develop and express their ethnic, cultural, linguistic and religious identity" (art. 6 (1)). Chapter II (Fundamental rights, freedoms and duties) specifies that "citizens are equal before the law and before public authorities, with no privileges and with no discrimination" (art. 16 (1)).

60. Romania continued its institutional reforms with the establishment of an Ombudsman in March 1997, with responsibility for defending the rights and freedoms of the people in their relations with the public authorities. A national minorities department was set up and entrusted to a minister attached to the Prime Minister's Office for the purpose of drawing up government policy concerning minorities, drafting bills on the subject and supervising their implementation once they are adopted by Parliament.

61. Romania is party to a number of international human rights conventions, including the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child. Where Europe is concerned, Romania is party to the European Convention on Human Rights and its 11 additional Protocols, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the framework Convention for the Protection of National Minorities. The last-mentioned Convention is the basis for the Romanian State's policy for the protection of minorities.

63. The latest census of the Romanian population, which dates back to 1992, puts the number of Roma at 409,723, or 1.85 per cent of the total population (22,810,035 inhabitants)*. These are persons who have declared that they are members of the Roma ethnic group, since several sources, including the Roma community associations, put the total number of Roma at 2 or even 2.5 million, i.e. more than 10 per cent of the total population. The Roma population is subdivided into several groups, according to their traditional occupations, the language they speak or the degree to which they are either sedentary or nomad. The Roma are divided into at least 40 different groups including the Ursari (bear trainers), Caldorari (tinsmiths and coppersmiths), Fierari (blacksmiths), Grastari (horse dealers), Lautari (musicians), Spoiri (whitewashers), Rudari (woodworkers), Boldeni (flower sellers), Argintari (jewellers) and Slatari (goldwashers). They can also be identified as Corturari (tent dwellers) or Vatrasi (settled).

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* The eleventh period report of Romania to the Committee on the Elimination of Racial Discrimination in 1993 (CERD/C/210/Add.4, paras. 16 to 19, gives more data on national minorities and the Roma.

There is also linguistic diversity among Roma. An estimated 60 per cent speak Romany in the family but also Romanian or Hungarian depending on their geographic location. However, there are also those who have lost their language and speak only Romanian or Hungarian. As a consequence of a deliberate assimilation policy of the former communist regime, most Roma have settled.

B. Forms and manifestations of discrimination against the Roma

64. While prejudices against the Roma tend to predominate, remarks by some representatives of this minority are indicative of its ambiguous situation in Romanian society. The Roma King considers that "Romania is the country the Roma feel most at home in, and this explains why they are so numerous". The representative of the Roma Party says that "there is no racism or xenophobia, but some discriminatory attitudes arise out of the deterioration of conditions of life in Romania, poverty and old attitudes which still predominate against the Roma". There is also a fairly prosperous and well-integrated Roma elite. Other contacts, however, stressed the links between racial discrimination and the poor socio-economic and social conditions affecting the majority of Roma in Romania.

65. The representatives of the Roma associations, however, are in agreement with the officials in recognizing that the police have made efforts to put an end to collective violence (houses burned and persons murdered) and to police attacks on Roma communities between 1990 and 1996 (see A/49/677, para. 85, A/50/476, para. 59 and Amnesty International, Roumanie: mise à jour des préoccupations d'Amnesty International (Romania: updating of Amnesty International's concerns), September 1993, AI:EUR 39/13/93), even though the perpetrators have not all been brought to justice. Moreover, as in the case of other minorities in Romania and as a result of democratic reforms, the political and cultural rights of the Roma are better protected. By cooperating with the Roma associations, the police are in the process of reforming the behaviour of officers who used to ill-treat and torture detainees of Roma origin and tended to stigmatize the Roma in their fight against crime.

66. The facts reported below do testify to the continued existence of some forms of racial discrimination inherited from the past, but are not intended to detract from the numerous measures the Government has already taken to deal with the problem of discrimination against the Roma at its source, in other words, their socio-economic marginalization.

1. Discrimination in education and employment

67. A study by the University of Bucharest in 1993 shows that 80 per cent of Roma have no vocational training and that only 23 per cent of the members of the community have a job. In the workplace, due to their low level of training and education, Roma are given the lowest jobs and find upward mobility in their work difficult. Discrimination against Roma also plays a substantial role in job promotion.

68. It should be borne in mind that the policy of assimilation of the Roma and the elimination of independent economic activities under the socialist regime resulted in this minority abandoning traditional occupations such as brick-making, copper- or wood-working and trade.

With the liberalization of the economy, many Roma have found themselves without a job and without land because of the closing of numerous factories and the abolition of collective farming.

69. Only 50 per cent of Roma children go to school on a regular basis. They are not segregated in specialized establishments as they are in the Czech Republic, but the prevalence of anti-Roma feeling in schools, and particularly among many teachers, discourages parents from sending their children to school. Since teachers are assessed on the basis of the percentage of successful pupils, they tend to reject Roma children, fearing poor school results.

2. Daily prejudices and discrimination - the role of the media

70. The media tend to convey anti-Roma feelings, which became widespread among the population. Not only does the press often refer to the Roma as "beggars", "dealers" and "illiterates", but it draws attention to the Roma identity of persons involved in criminal activities, and the result is that the entire Roma minority is discredited.

71. Various representatives of Roma associations have taken umbrage at the fact that the Romanian Government continues to use the term "Gypsy" in its official documents, although they have stated that they consider this term hurtful and discriminatory. The persistence of prejudices is reflected in this anecdote reported by one of the Special Rapporteur's contacts: during a conference, a Romanian government official allegedly expressed doubts in an aside regarding the origins of a representative of a Roma association on the grounds that he was elegant, educated (he was a sociologist) and probably free of any criminal record (sic).

C. Measures taken by the Government

72. The Romanian Government has taken a great many measures politically, economically and socially to encourage the integration of the Roma. Thanks to wide-ranging educational reforms, several subjects are now better taught in Roma languages. Constant efforts are being made to achieve a wider recognition and better appreciation of Roma culture and to change the image of members of the Roma minority in society. The Government has already drafted a bill on the prohibition of all forms of racial discrimination, for submission to Parliament in the course of the year 2000. With the help of a two million Euro subsidy through the European Union FARE programme, the Government hopes to improve the Roma's living conditions and further their integration.

1. Political and institutional measures

73. Like other minorities, Roma benefited from the democratic reform which ensured their political representation. Under the Constitution of Romania (art. 59.2) and the Electoral Law (Act No. 68 of 1992, arts. 4.1 and 4.5), there are seats in Parliament or, more specifically, in the Chamber of Deputies which are specifically reserved for organizations of citizens belonging to national minorities, the only conditions being that: the organizations concerned must be legally constituted, must participate in the elections, must not have won any deputy's or senator's seat in the elections, and must have won (nationwide) at least 5 per cent of the valid votes. Deputies' seats allocated in this manner are additional to the regular total number of deputies in the Chamber of Deputies.

74. The Roma Party (in Romanian: *Partida Romilor*) is an association which participated in the 1996 elections, in competition with other Roma associations. It was able to gather enough votes to benefit from the affirmative action provisions of the Electoral Law, and has one representative in the Parliament of Romania. But it is important to stress that it is not the only representative of Roma origin in the Romanian Parliament. There are (and there have always been) many more Roma in the Romanian Parliament, who were elected not on an ethnic ticket but as members of a non-ethnic political party.

75. It seems that owing to divisions within the Roma community, its parliamentary representation is not in proportion to its size, unlike the Hungarian minority, which is more united and better organized and whose 1.5 million members are represented by 36 deputies.

76. Where institutions are concerned, the establishment in 1997 of a Department for the Protection of National Minorities (with an office in charge of the social integration of the Roma), headed by a minister reporting to the Prime Minister, demonstrates the importance the Government gives to the integration of the Roma. Similarly, the establishment in 1998 of an interdepartmental body to coordinate activities in favour of minorities (the inter-ministerial Committee on National Minorities) is the result of the Government's desire to solve the problems affecting these minorities consistently and efficiently. However, the representatives of the Roma organizations have pointed out that they are not involved in the decision-making process in those bodies; they would have preferred the post of director responsible for the integration of the Roma to have gone to a Rom, who, in their opinion, would be more familiar with the needs of their group.

2. Economic and social measures

77. As part of a social integration strategy for the Roma, the Ministry of Labour and Social Protection with the assistance of representatives of the Roma minority, has launched a special vocational guidance programme to take effect in local labour and social protection offices. The National Office for Roma of the Department for National Minorities has carried out a series of projects to improve the level of employment of the Roma and to introduce them, in cooperation with national and international partners, to lucrative activities.

78. Regarding housing for Roma, an example of "good practice" was brought to the attention of the Special Rapporteur. In September 1999, in Nusfalau, Salaj County (north-west of Romania), 10 "social houses" were inaugurated for Roma of that village. In Romania, this housing project was carried out with sponsorship from the Dutch foundation SPOLU and with very consistent participation by the whole community of that village, including Romanians, Hungarians and Roma. The Roma beneficiaries of these new houses were directly involved in their construction, providing both labour and materials (such as bricks).

3. Educational measures

79. Early in 1990, the General Education Department for National Minorities of the Ministry of Education set up three classes for Roma teachers in the teacher training colleges of Bucharest, Bacau and Târgu-Mures.

80. In 1991, the Ministry of Education drew up a Romany language study programme for Roma primary teachers (ninth to thirteenth grade) in the teacher training colleges, introducing into the syllabus the official international Romany language alphabet adopted in Warsaw in April 1990 at the World Roma Congress. The same year a collection of Romany texts was prepared for use in Romany language and literature courses for Roma primary teachers. In accordance with the 1994 syllabus, a Romany language handbook was published for students in teacher training colleges, which, along with the Romany-Romanian dictionary published in 1992, is used to teach Roma students in these colleges in their mother tongue. In 1995, a collection of texts in Romany for the second to fourth grades was published.

81. The teaching of Romany in primary schools began in a few schools in the school year 1992-1993. It is also supported by education projects initiated by the Bucharest-based non-governmental organization Romani CRISS (Roma Centre for Studies and Social Action) in the localities of Coltau and Valenii Lapusului in the department of Maramures. In 1993, the Ministry of Education gave its backing to authorizing two schools for Roma pupils (the "Rrom-Rrom" school in Caracal, annexed to School No. 6 and the Ferentari-Bucharest School) as part of the Baptist Church's project for the education of street children.

82. After completing their studies in July 1995, the primary teachers trained in Roma classes began in their schools to organize groups of pupils of their own ethnic group during the school year 1995-1996 to study the Romany language.

83. The Ministry of Education has also started a coherent programme of affirmative action for Roma, from kindergarten to university. The same Ministry also inaugurated the hiring of school inspectors in each of the 42 counties of Romania. During the academic year 1999-2000, more than 150 Roma students benefited from the special State University places reserved for Roma under an affirmative action programme. There are many other Roma students in practically all the universities in Romania who prefer not to take up such special places but to pass instead through "ordinary" entry channels.

84. The Association of Students and Young Roma against Racism, however, in interviews with the Special Rapporteur, denounced practices which since 1997 have aimed at abolishing the Romany language and literature department of the Faculty of Foreign Languages and Literature in the University of Bucharest. Despite the interest expressed by a large number of students, only 13 out of the planned 20 places have been reserved for the study of the Romany language, which jeopardizes the department's existence. The Association has asked the Rector of the University to intervene to ensure the acceptance of a sufficient number of students who have applied to enter the Romany language department, so that the department can be maintained.

4. Legislation against racial discrimination

85. The Department for the Protection of National Minorities has already drafted a bill against all forms of discrimination, which will be submitted to the Government and the Parliament after obtaining the necessary signatures from all interested ministries. This bill makes provision for the prohibition of racial discrimination in public life, education, employment, health, public and social services, private dignity, etc. The Government hopes that this law will contribute to reducing significantly the number of manifestations of racial

discrimination in Romania. The draft also contains provisions concerning the establishment of a national council against discrimination, which will be a governmental body able to investigate cases of discrimination and to apply sanctions in case of violations of the law.

86. Pending the establishment of the council against discrimination, the Ombudsman's representatives have reported receiving several complaints from persons of Roma origin, mostly about discriminatory treatment, either by the police or in the areas of health and social assistance.

5. Measures taken by the police

87. The police inspectorate, in partnership with several Roma associations, has taken several steps to prevent crime within the Roma ethnic group. The programmes implemented aim to:

(a) Determine the needs and characteristics of the Roma ethnic group so as to be able to deal with any problems the police might come up against in a fair and non-discriminatory manner;

(b) Set out police suggestions for ways of dealing with specific problems of the ethnic group, while respecting citizens' rights and freedoms;

(c) Put into practice crime prevention strategies within the ethnic group in order to change the way the group is perceived by the rest of the population.

In several symposia, police officers and representatives of the Roma have discussed how the relationship between the Roma and the police is perceived, and the role and place of the police officer in a multi-ethnic State. Joint programmes involving Roma associations and the police have been devised to make communication between them easier.

88. Courses on the implications of law-breaking have been given to social workers dealing with the Roma. Between 1996 and 1998, 25 meetings were organized to bring together the police, local leaders of the Roma minority and the administration with a view to preventing violence and resolving the conflicts that are common in certain districts.

D. Activities of United Nations bodies

89. The representative of the United Nations Development Programme (UNDP) said that UNDP supported the Government's efforts to improve the economic and social situation of the Roma. Hence, a pilot project with funding of US$ 187,000 has been launched to eliminate poverty among the Roma in the Zabauti district of Bucharest and in the town of Negresti (Vaslui county).

90. The representative of the United Nations High Commissioner for Refugees expressed concern about the large number of stateless persons among the Roma, particularly among Roma children whose birth has not been registered with the Romanian authorities and who still have no form of identification. The Office of the High Commissioner is of the view that Romania's

accession to the Convention on the Reduction of Statelessness and the Convention relating to the Status of Stateless Persons would facilitate the search for solutions to this worrying situation and would also contribute to the integration of the Roma.

E. Action by civil society

91. A large number of Roma associations are active in several areas, particularly at the political and social levels and in the area of education, and provide significant support to government initiatives. A number of associations provide legal support for the victims of racial discrimination and are constantly working towards the elimination of this scourge. These ethnic associations enjoy the cooperation with non-governmental organizations such as Liga Pro Europa.

92. The Roma Centre for Studies and Social Action (Romani CRISS) is one of the most active organizations both in the fight against racial discrimination and in carrying out economic, social or educational projects. The Centre collaborates with governmental and municipal bodies, provides legal assistance to the victims of racial discrimination and makes recommendations to the Government with a view to amending laws. It comprises mainly Roma students, jurists and lawyers. One of the organization's jurists, Nicolae Gheorge, was recently appointed councillor for Roma and Sinti affairs at the Organization for Security and Cooperation in Europe (OSCE), where he helps to work out regional strategies to resolve problems affecting this minority.

93. Romani CRISS was involved in the discussions between the police and Roma associations aimed at finding ways to improve relations between the former and members of the Roma minority. It also cooperates with the Ministry of Education to improve school conditions for Roma children and the teaching of the Romany language.

94. The Roma Party (Partida Romilor) is a politically active association and the only Roma organization represented in Parliament. It claims to have 800 members in 200 subsections throughout Romania. It campaigns for Roma unity and to improve the economic and social conditions of the Roma.

95. Lastly, an important figure is the "King of all Roma", His Majesty Florin Cioaba, who is also the president of the Christian Roma Centre in Romania. The King devotes himself to various economic activities, the profits from which go towards various Roma community projects in Sibiu, including the construction of a handicraft training centre intended to revive traditional Roma crafts such as basket-making, woodworking and copper-working. The King also exerts moral authority: as departmental councillor of the Roma Party, he exercises some influence within his region.

96. The Romanian Human Rights Institute, established in 1991 with the support of the United Nations Centre for Human Rights, is helping to create a human rights culture in Romania by disseminating regional and international human rights instruments. It trains instructors in the field of human rights and takes the lead in studies of human rights issues in Romanian society, organizing seminars and workshops on various subjects. The Institute also presents a monthly radio programme for the general public.

III. CONSULTATIONS IN HUNGARY

97. The Special Rapporteur spent most of his stay in Hungary in Budapest from 27 to 30 September 1999. He met senior officials from the Ministry of Foreign Affairs, the Ministry of Education, the Ministry of Justice and the Ministry of the Interior. He also had talks with Mr. Gyula K. Szelei and Mrs. Klára Breuer, respectively Director-General for International Organizations and Chief of the Department of Human Rights and Minorities Legislation at the Ministry of Foreign Affairs, Mr. Toso Doncsev, President of the National and Ethnic Minorities Office, Mr. Tamas Ban, Director-General at the Ministry of Justice, and Mr. Zsolt Jékely, Director-General at the Ministry of Cultural Heritage.

98. The Special Rapporteur also had talks with parliamentarians, including Mr. Béla Pokol, Chairperson of the Constitutional Committee of the National Assembly, and Mrs. Kosa Magda Kosacs, Chairperson of the Committee of the National Assembly for Human Rights, Minority Rights and Religious Affairs. He had meetings with representatives of national human rights institutions, including Mr. Jenö Kaltenbach, Parliamentary Commissioner for the Rights of National and Ethnic Minorities, Mr. László Majtényl, Parliamentary Commissioner for Data Protection, and Mr. Péter Polt, Deputy Ombudsman. He also met Mr. Lorenzo Pascuali, Deputy Representative of the United Nations High Commissioner for Refugees. Lastly, the Special Rapporteur had talks with representatives of Roma community associations and organizations for the protection of rights, and the rights of the Roma in particular. A list of the most important people with whom the Special Rapporteur spoke is contained in the annex to this report.

99. The Special Rapporteur would like to thank the Hungarian authorities for their warm welcome and their cooperation in the preparation and course of this visit. He would also like to thank the Deputy Representative of the High Commissioner for Refugees and all the associations and organizations with which he had talks.

A. Overview

100. The changes which have occurred in the political and economic system are part of the upheaval that affected most of the communist regimes in central and eastern Europe after 1989. As a result, Hungary opted for a democratic system with institutions to guarantee the rule of law and human rights and fundamental freedoms, including the protection of the rights of minorities. Thus, in accordance with article 70 (a), paragraphs 1 and 2, of the Constitution, the State guarantees the human rights and fundamental freedoms of all persons on Hungarian territory with no distinction as to race, colour, language, etc. In accordance with paragraph 3 of the same article, the Republic of Hungary guarantees equality before the law and takes whatever steps are required to ensure equality of opportunity.

101. Hungary is a party to the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Since it joined the Council of Europe in 1990, Hungary has been a party to the European Convention on Human Rights. In 1995, it ratified the framework Convention for the Protection of National Minorities.

102. Nevertheless, observers have commented that, during the democratic transition, the Gypsy communities suffered not only from increasing social disadvantages, but also from attacks from the far right and from discriminatory measures by institutions, the State and local government. The various political actors were unable to prevent "traditional" discrimination against Gypsies by local governments, schools, employers, the police and occasionally prosecution authorities.

103. At the last census, in 1990, 148,000 people said they were Roma or Gypsies, but the actual number is estimated at 500,000 (5 per cent of the total population). It should be pointed out here that the term "Gypsy" is quite acceptable and commonplace in Hungary, unlike in Romania or the Czech Republic, where it is used pejoratively. It does not refer to a homogeneous ethnic group. After arriving in Hungary in the fourteenth and fifteenth centuries, the Gypsies led a nomadic life until the eighteenth century. The industrial mass production methods of the twentieth century rendered superfluous their traditional occupations in commerce and crafts (adobe brick-making, trough-making and trade). As a consequence, a great many of them undertook unskilled jobs in large factories during the socialist industrialization and became commuting residents of workers' hostels. They were the first to lose their jobs and their modest livelihoods after the change of regime in the 1990s. The Gypsy minority that lives in Hungary can be divided into three large groups according to tribal origin and native language. The Romungros, whose mother tongue is Hungarian, constitute the majority of the Gypsies. The Olah Gypsies, whose native language is Gypsy, constitute approximately 20-22 per cent, while the Beyash Gypsies, who speak an archaic version of Romanian, make up 8-10 per cent of the Gypsies in Hungary.

104. The Government has stated that it is aware of the problems faced by the Gypsies, but it considers these problems not to be a question of racial discrimination as such but one of the economic and social circumstances of this ethnic group that have been brought about by Hungary's changeover from a centralized to a liberalized economy. The Roma also have to put up with certain prejudices arising from ignorance and intolerance in the majority of the population, but there has never been any form of institutionalized racial discrimination in Hungary. Nevertheless, the Gypsies do suffer from poverty, a lack of education and professional training, marginalization and high crime rates. Government representatives maintain that measures already taken on the political, economic and social levels should in the medium term facilitate better integration of the Gypsies.

105. However, non-governmental sources told the Special Rapporteur that there is built-in racial discrimination and an insidious form of racism in Hungarian society, and that this discrimination and racism is encouraged by some State officials, particularly the police and local government. These feelings sometimes lead to outbreaks of violence. The Special Rapporteur will try to illustrate the different viewpoints he heard in what follows.

B. Forms and manifestations of racial discrimination against Gypsies

1. Prejudices and discriminatory practices

106. The Gypsies are the only minority that is physically distinguishable from the rest of the Hungarian population. The Government officially promotes multiculturalism and peaceful

coexistence between minorities and the majority, but there are many Hungarians with a racist mentality, whether or not they are aware of it, particularly with regard to the Roma. The average person has a negative view of the Gypsies, who are seen as "dirty", "violent" and "lazy" and as "criminals" and "cheats". The mostly large Gypsy families are considered noisier than others and their lifestyle as a group is frowned upon by the rest of the population. The social benefits paid to many families, which are their only source of income because of the unemployment that affects the majority of the Roma, exacerbates anti-Roma sentiment in some places. An opinion poll carried out in 1997 by the Hungarian polling institute KFT revealed that 60 per cent of the population would refuse to live next to a Gypsy. Racism against Gypsies is insidious: in fact, only a small minority of supporters of the far right, police officers and local officials give violent expression to it.

107. With regard to housing, Gypsies and non-Gypsies have in effect been separated because of the impoverishment of the Gypsy minority, but there have also been attempts by local authorities, under pressure from local people, to isolate Gypsy communities from the majority or to evict them. The refusal to live side by side with Gypsies has sometimes led to violence, especially in rural areas, as revealed by the data collected by the Parliamentary Commissioner for the Rights of National and Ethnic Minorities (the "Parliamentary Commissioner").

108. According to the 1998 report of the Parliamentary Commissioner, most complaints were filed against local councils: altogether, 409 complaints were submitted to him, of which 241 fell into his sphere of competence. Out of these complaints, 77 were filed against local councils (as opposed to the 37 complaints concerning the police), which was almost one third of the cases with respect to which the Parliamentary Commissioner was entitled to take action.

109. The most problematic aspect of such cases is that most of them include indirect discrimination, which is very difficult to prove. However, in some of the cases the discriminatory nature of the complaint was self-evident and the Parliamentary Commissioner was able to take the necessary measures. The so-called "Zámoly case" is one example: in the village of Zámoly, the roof of the building in which the Roma families lived was severely damaged. Seeing a good chance to get rid of the Roma families, who were imposing a serious burden on the social budget of the local council, the mayor suggested that they should move temporarily to the community centre and "ordered" the notary (who is in charge of building affairs in the Hungarian system) to classify the Roma building as "unfit for accommodation" and to order the owners to pull it down.

110. Another attempt to evict Roma families from their home occurred on 29 August 1999 in the village of Újferhértó, in eastern Hungary. Allegedly, a group of about 25 to 30 persons attacked a Gypsy family. Young people armed with iron rods and baseball bats beat up the male members of the family. Eight victims were taken to hospital. The attackers continued to threaten the Gypsies when the police arrived. Two suspects were arrested and interrogated but refused to make a statement.

2. Discrimination in education and employment

111. In Hungary, as in the Czech Republic, where pre-school education is concerned, there is a practice of placing Gypsy children in special schools for "mentally retarded" children. This

reduces these children's chances of receiving a normal primary and secondary education and means they have no access at all to higher education. Since 1992, the law has forbidden ethnic data gathering so there are no recent statistics in this respect. However, according to 1995 figures, in 309 special schools Gypsies accounted for 41 per cent of a total of 27,365 children while representing only 7 per cent of all school-age children. According to some of the people who spoke to the Special Rapporteur, the situation is much the same at present.

112. The discriminatory treatment of Gypsy children in the Hungarian school system is particularly evident in the primary school in Pethe Ferenc, in Tiszavasvári district (in the east of Hungary). It was the practice in this school to separate Gypsy children from the other pupils and to forbid them to enter the school cafeteria and gym, or to organize promotion ceremonies, which were different from those of the other children. On 22 April 1999, in response to a complaint by 14 children of Gypsy origin, represented by the non-governmental organization Roma Civil Rights Foundation, a court found the school guilty of racial discrimination and ordered the Tiszavasvári town council to pay compensation of 100,000 forint (US$ 450).

113. The other problematic area is discrimination in relation to employment. Numerous complaints were submitted by Roma to the Parliamentary Commissioner in connection with employment: in several cases, when the employers realized that the job-seeker (whom they had found suitable for the job on the basis of a telephone conversation) was a Rom, they turned the applicant down, saying that the job was already taken. Considering the difficulty of proving discrimination in such cases, current legislation seems sufficient to restrict discriminatory behaviour. Article 75 of Government Decree No. 17/1968 on petty offences orders that discrimination against employees be punished. This regulation is implemented by either the notary of the local council or the so-called "labour inspectorates". The inspectorates are authorized to impose a public administrative fine (ranging from 50,000 to 1 million forint) on any employer infringing this article. However, a different picture emerges in practice: no procedure for the implementation of article 75 of the government decree was initiated and no fine was imposed on employers in 1998 or in previous years.

114. As a result of discrimination, Roma are practically absent from the service sector in Hungary. There are almost no Roma taxi-drivers, shop assistants, kitchen workers in pubs and restaurants, or doormen at banks or hotels. Roma are employed as garbage-collectors, street-sweepers or factory workers. The vast majority, however, are unemployed. The unemployment rate among Roma is estimated at 60 per cent; outside relatively prosperous Budapest, areas with nearly 100 per cent unemployment among Roma are not uncommon, according to several sources.

3. Racist violence by the police

115. Hostility towards Gypsies would appear to be almost systemic in the Hungarian police force. In general, the police maintain that the Roma pose more problems than the rest of the population; the Roma, for their part, believe that they are systematically targeted by the police. Non-governmental sources told the Special Rapporteur that the general anti-Roma attitude of the police force is indicated by the high number of cases of off-duty police officers harassing Roma. On 31 July 1998, an off-duty non-Roma police officer from Budapest verbally and physically abused a group of women attending a conference in a holiday resort in Balanszemes. The officer

was verbally and psychologically supported by a group of allegedly drunken non-Roma men. One of the women suffered a concussion, while another, who was six months pregnant at the time, suffered other substantial injuries. The men also allegedly made insulting comments about the ethnic origins of the women. The local police were reluctant to provide assistance to the female victims. They did not take measures at the scene and failed to write a report on the case. The officers of the Siófok city police are also said to have reacted only after women brought the incident to the attention of the national media.

116. Another case of police mistreatment of Roma has been reported as follows. In December 1998, while preparing to celebrate his birthday, a young Rom went out to the pub next door to buy drinks with three friends. An off-duty police officer standing in the door of the pub would not let them in, saying that a private party was being held inside. However, the young Rom wanted only to buy wine and not to drink at the pub, so eventually he and his friends were allowed to enter. The dozen policemen inside the pub attacked the four men. Two managed to escape, but the policemen caught the other two and kicked them. The next day, they went in uniform to the houses of the young men and brought them to the police station. They were told that if they reported the event they would get into trouble.

117. On 9 June 1999, the Roma Civil Rights Foundation filed a law suit against unknown police officers who beat up László Sarközi, a young Roma college student, in one of the parks in Budapest and then in the city's 10th-district police station. According to the victim, he was walking home when a white car stopped next to him. Three policemen not wearing uniforms stepped out of the car and told him to show his identity card and to place the contents of his pockets on the car. He handed them his identity card and gave them the documents he had with him, which included his poems and his college notes. However, when he refused to let them read his papers, the policemen threw him to the ground and handcuffed and kicked him, calling him a "stinking Gypsy" and a "dirty fag".

118. Roma victims are often unable to obtain adequate remedies for such abuses. The 1997 statistics concerning so-called "official crimes" (i.e. crimes committed by public officials) show a depressing picture: while there were 386 reports of forced interrogation, policemen were taken to court in only three cases and charges were pressed only in a further 38 cases. In 142 cases, investigation into the incidents was denied and in 202 cases it was terminated. In summary, 89 per cent of the reports ended without indictment. In the case of ill-treatment, the figures are as follows: 843 reports, 276 denials of investigation, 448 investigations terminated; altogether 86 per cent of the cases ended without indictment. The figures for unlawful detention are as follows: 66 denials of investigation, 86 investigations terminated; altogether 87 per cent of the cases ended without indictment. All in all, approximately 3 per cent of cases brought against the police actually led to convictions. In the few cases where police officers were convicted, the penalties were usually fines, probation or suspended sentences, and the police officers generally remained on the force.

119. On 11 January 1999, in Hajdúhadház, in north-eastern Hungary, on the pretext of a police measure, two juveniles, Attila Rezes and Ferenc Vadász, were seriously injured. As a consequence of the assault, the 16-year-old Attila Rezes suffered a dangerous cerebral lesion and only quick medical intervention saved his life. It has been reported that the police officers from the police station in Hajdúhadház district have been particularly violent to people of Gypsy

origin. In March 1999, four human rights non-governmental organizations, the Roma Civil Rights Foundation, the European Roma Rights Centre, the Legal Defence Bureau for National and Ethnic Minorities and the Hungarian Helsinki Committee, conducted an investigation in this district, which revealed that police methods in Hajdúhadház were humiliating and brutal towards Gypsies. They often included beatings, physical injury and forced interrogation. The High Commissioner of the Hungarian National Police is investigating the situation and it appears that legal proceedings have been started against 15 police officers from this district.

4. Discrimination in the administration of justice

120. The biased attitude of judges towards the Roma is another problem area which was brought to the attention of the Special Rapporteur. As in the case of local councils, it is very hard to find proof of this bias. The situation is further complicated by the fact that, as a result of the fundamental requirement concerning the independence of the judiciary, the Parliamentary Commissioner is not authorized to examine the activity and decisions of judges, although a significant percentage of the complaints are filed against them (29 out of 270 in 1998). The Parliamentary Commissioner's 1998 report asks whether this solution is compatible with freedom of opinion. However, the regulation excluding the courts from the Parliamentary Commissioner's sphere of scrutiny is unlikely to be modified.

5. Discrimination in the provision of services and access to public places

121. Numerous cases of discrimination against Gypsies concerning entry into restaurants, shops and discotheques have been brought to the attention of the Special Rapporteur. Such cases were reported in February 1997, in a shop in the town of Bogács (Borsod-Abaúj-Zemplén county), December 1997, in a discotheque in the town of Polgard, and July 1998, in a shop in the village of Komárom-Esztergom. Details of these cases and many others can be found in the report of the Hungarian Helsinki Committee - Roma Press Centre entitled "Chronicle of everyday events: a year in the life of Roma in Hungary", and in the 1998 report published by the Legal Defence Bureau for National and Ethnic Minorities (NEKI).

C. Measures taken by the Government

122. The Hungarian Government is tackling the problems facing the Gypsies in a determined manner and for this purpose has adopted measures in the political, legal and institutional areas as well as in the areas of the economy, housing, health, education and culture. The police have also initiated reforms in order to change its officers' behaviour towards Gypsies. Medium- and long-term strategies have been designed to reach the targets contained in these measures. The details and accuracy of the information provided by the Government in its January 1999 report to the Council of Europe on the implementation of the framework Convention for the Protection of National Minorities are evidence of the efforts it is making to put an end to the situations described above.

1. Measures in the political, legal and institutional areas

123. In 1993, Parliament promulgated the National and Ethnic Minorities Act (No. LXXVII), article 5 of which stipulates, among other things, that under the Constitution, minorities have the

right to set up their own self-governing bodies. "Minority self-governments", as they are referred to, are legitimate elected bodies which represent the whole minority population of a given settlement. They are entitled to cooperate with the local authorities and to receive annual State subsidies. They have the right to decide their own structure and the way they operate. They have the right to establish and run cultural and educational establishments such as schools, museums and theatres. Local minority self-governments have the right of veto whenever local authorities wish to adopt decrees on cultural, educational or language issues concerning the minority. They also have a say in the appointment of directors of minority institutions. National minority governments operate as negotiating partners for the Government and are consulted when legislation is being drafted at the national, county and capital-city levels.

124. In the opinion of several people who spoke to the Special Rapporteur, this system does not really give power to minorities, as their representatives are not elected exclusively by minorities but by the whole of the electorate in the place where the minority self-government is to be established. Moreover, the supposed right of veto of the self-government representative is in fact only an advisory opinion, as the representative is not entitled to vote in the town council, despite being elected in the same way as the other representatives. Furthermore, the funds set aside for autonomous governments in the national budget are not allocated to them directly, but are managed by the town council in the town where the autonomous government is established, and the council selects the projects concerning minorities. When the majority of the population in the town belong to a specific minority there is probably no risk of bias, but when the population is of a more diverse nature one might expect difficulties in obtaining finance for the projects of a minority that does not pledge allegiance to the majority population, as in the case of a number of autonomous Roma governments.

125. Representatives of Roma associations have pointed out that the Government's political strategy has consisted of co-opting a single Roma organization, Longo Drom, which controls all the autonomous Roma governments, and sidelining other organizations demanding real autonomy for the Roma. Other institutions ensure the protection of minorities in general and the Roma in particular. In June 1995, the Hungarian Parliament appointed a commissioner for law-enforcement. As mentioned above, the Parliamentary Commissioner for the Rights of National and Ethnic Minorities is competent to examine complaints about racial discrimination by State bodies and to make recommendations or refer cases to the courts.

126. In 1990, the Government set up the National and Ethnic Minorities Office in the Ministry of Justice (by decree No. 34/1990 (VIII.30)) to prepare government decisions on minority policy and to develop its programme for minority policy. The National and Ethnic Minorities Office continuously evaluates the enforcement of the rights of national and ethnic minorities and the situation of minorities. It also prepares analyses as a basis for government decisions in connection with minorities. The National and Ethnic Minorities Office coordinates the implementation of government measures concerning minorities and has a department for Roma affairs. In order to coordinate action by ministries involved in implementing medium-term measures to improve the situation of the Roma, an inter-ministerial committee has been set up: it includes representatives of the ministries of the interior, foreign affairs, finance, education, cultural heritage, defence, the economy, justice, health, and youth and sports.

127. Two bodies are responsible for managing the funds allocated to various projects intended to improve the economic and social situation of the Roma and to promote their culture: these are the Public Foundation for National and Ethnic Minorities and the Public Foundation for Hungarian Gypsies. The annual Budget Act contains the annual allocations for these two foundations. The board of trustees of each foundation is responsible for determining the manner in which allocated funds are used:

(a) The Public Foundation for National and Ethnic Minorities supports programmes that provide for the preservation of minority identities, the development of native languages and cultures and the protection of minority interests. It also provides important financial resources for events, programmes and the publication of books and periodicals in connection with minorities' religious traditions and arts, as well as their various holidays and celebrations. It also offers scholarships for minority students attending high school, college or university;

(b) The Public Foundation for Hungarian Gypsies primarily supports the development of small enterprises and employment and health-care programmes that help to sustain the livelihood of minority families and small communities.

Government representatives pointed out that the largest budget item for the minority-related activities mentioned above is devoted to educational purposes. The 1999 Budget Act provided a total of 138 million forint for Roma programmes.

128. With regard to the prohibition of racial discrimination in all spheres of social life, the Government intends to strengthen legislation and monitor racist crimes. The bill to be discussed by Parliament will make it possible to combat racial discrimination more effectively in the areas of education, employment, housing and the provision of services. It will also introduce sanctions for racist remarks made by individuals or broadcast by the media.

2. Measures in the area of education and employment

129. The measures proposed for the educational and employment sectors include positive-discrimination measures, such as the provision of educational grants for Roma children, support for especially gifted Roma children, vocational training for unemployed Roma, encouragement for private firms to hire Roma and support for small-scale commercial projects undertaken by Roma. The Government is also contemplating building dormitories for Roma children in schools.

3. Measures in the area of health

130. With a view to improving the health conditions of the Roma population and to eliminating the discriminatory practices encountered in their use of medical services, the Government plans to undertake a research programme to study health indicators for the Roma population and the latter's relationship with the institutions providing medical services. A technical programme will be developed in connection with the health policy strategy on the basis of the results of the study.

4. Cultural measures

131. The Government, in association with Roma organizations, has drawn up some programmes to raise awareness of Roma culture and to have it more widely accepted as an integral part of the Hungarian cultural heritage. Cultural programmes are broadcast on the television and radio. A box of CDs of Roma music has recently been produced by the Ministry of Cultural Heritage.

132. The National Roma Information and Cultural Centre, run by the autonomous national Roma government, was established in autumn 1998. The central State budget provided 180 million forint for the establishment and operation of this institution. The Centre hosted the first national conference of Roma writers, poets, journalists and artists in April 1999. More than a dozen multifunctional Roma community centres established with State funds have started operating. They play an important role in strengthening local communities and safeguarding Roma culture.

5. Police measures

133. The Government considers that law-enforcement officers should be taught about the social, historical, cultural and sociological background of the Roma. To that end, the Minister of the Interior invited representatives of Roma organizations to discuss the relationship between the police and the Roma population, and a programme on Roma ethnicity, traditions, culture and lifestyle was subsequently launched with their cooperation. Training in techniques to manage and prevent conflicts arising from prejudice has also been included in the education and training provided for law-enforcement bodies at middle- and senior-manager level, with the involvement of foreign and national organizations specialized in conflict management.

D. Action by civil society

134. Several non-governmental organizations are taking effective action to improve the situation of the Roma in Hungary. A number of them enjoy financial support from the Soros Foundation, which has set up a comprehensive programme to support activities to help the Roma in the areas of education, the media and legal assistance. A total of 198 million forint was allocated to this programme in 1998. Organizations such as the Roma Civil Rights Foundation, the Legal Defence Bureau for National and Ethnic Minorities, the European Roma Rights Centre, the Hungarian Helsinki Committee and the Roma Parliament, which are very effective in the field, have benefited from this assistance.

135. The Roma Civil Rights Foundation, which is committed to the civil and political emancipation of the Roma, points out that during the four years it has been in operation it has established successful and indispensable civil institutions and programmes, including the network of fact-finding, crisis-managing and legal defence offices, the Roma Press Centre, the "invisible college" and Free University programmes of Romaversitas, and the Roma Community Centre in Budapest-Ertébetváros. Since 1995, the Foundation has regarded as one of its main tasks the creation of a network of legal defence offices that contribute to the emancipation of the Roma in Hungary by giving legal advice and providing free legal aid and also by taking a resolute stand against all forms of discrimination affecting the Roma.

136. The Romaversitas programme of the Foundation, which is considered as a model initiative in complementary higher education, provides intellectual and financial support for college and university students of Roma origin. The Foundation's "invisible college" is a tutorial system involving scholars and scientists and supports students with special grants; the Foundation also sponsors the Free University, where vocational skills are taught by experts and specialists in various fields. A student centre for undergraduates provides an environment with computers and other office equipment.

137. The Legal Defence Bureau for National and Ethnic Minorities (NEKI) has been a pioneer in providing legal assistance to the victims of racism and discrimination. Since it was set up in 1993, it has provided an accurate picture of racial discrimination in Hungary on the basis of the cases it has studied. Its annual reports on cases of racial discrimination are authoritative and its recommendations to the Government with a view to strengthening legislation against racial discrimination deserve close attention. NEKI considers that there are currently no adequate legal sanctions for racially motivated petty offences (abuse, duress, harassment, etc.) committed in connection with the victim's national, ethnic, racial or religious identity; nor are there any proper criminal sanctions for discriminatory acts causing psychological injuries such as humiliation. Therefore, NEKI has suggested that the following steps should be taken: an anti-discrimination act should be passed, an adequate system of sanctions, which would be suitable for the prevention of discriminatory acts and the effective punishment of offenders, should be developed, and an effective institutional system should be set up to guarantee the implementation of the anti-discrimination act and the above-mentioned sanctions.

138. Together with other organizations, the European Roma Rights Centre and the Hungarian Helsinki Committee have often pressured the police and local authorities to change their attitudes. These organizations have taken part in various investigations into the forms and manifestations of discrimination, which have helped to advance official thinking on how to deal with the problem and which have contributed to the search for more suitable methods.

139. The Roma Parliament sees itself as an organization offering an alternative to the "effective non-representation" of the Roma in local and national bodies: it pursues a political and cultural policy designed to strengthen the identity and unity of the Roma. It also provides courses on politics for its supporters and publishes a magazine called *Amaro Drom* to publicize Roma culture. The Roma Parliament complains that it is ignored by the Government and regrets that it does not receive any subsidies like other Roma organizations.

IV. CONCLUSIONS AND RECOMMENDATIONS

140. This mission report, while quite general in nature, aims to highlight the problems faced by the Roma in this part of Europe and to give the Commission some information on efforts by the three Governments to help them. The Czech Republic, Romania and Hungary were chosen because of the resource and time constraints within which the Special Rapporteur had to work and not because of any desire to stigmatize these countries for problems that are of a regional nature. Nevertheless, the mission has made comparisons possible: while there are many similarities in the situation of the Roma population in all three countries, there are also differences. It has been seen that prejudice against the Roma is the same in the Czech Republic as in Romania and Hungary but, whereas violence against them is under control in Romania, it

persists in the Czech Republic and Hungary. Whereas in the Czech Republic and Romania, Roma affairs are managed by administrative bodies with representatives of Roma associations as partners, in Hungary the Government works with elected Roma representatives on the design and development of programmes for their community, even though the system of "self-governments" still raises some doubts. All in all, it should be stressed that in their common desire to become members of the European Union, the Governments of all three countries are genuinely committed to carrying out reforms which will benefit the Roma and which, if they are followed through, should meet with success in the medium or longer term. It is therefore with the intention of supporting this process and allowing the Commission on Human Rights to continue to follow closely the situation of the Roma that the Special Rapporteur makes some recommendations for the Governments of the Czech Republic, Romania and Hungary.

A. Czech Republic

141. Roma and non-Roma families in the town of Ústi nad Labem should be encouraged to come together and hold talks on living side by side on better terms.

142. The segregation of Roma schoolchildren should be stopped through steps to ensure equality of opportunity for this population and equitable access to education for all.

143. The Czech Government should speed up the process of passing a law to curb racial discrimination in all walks of life by following the example of the Model National Legislation for the Guidance of Governments in the Enactment of Further Legislation against Racial Discrimination, prepared by the United Nations.

144. The Czech Government should plan cultural exchange programmes that would allow the Roma and the majority of the population to draw closer together.

B. Romania

145. Action is needed to prevent the disparagement of the Roma in the media, to raise awareness of Roma culture and to carry out a campaign to educate the general public in human rights and tolerance.

146. The Romanian Government should involve the Roma more closely in taking decisions that concern them.

147. The Romanian Ministry of the Interior should pursue its efforts to change police officers' attitudes to ensure that the Roma receive better treatment.

C. Hungary

148. The Hungarian courts should come down harder on racist crimes or acts committed by individuals or by State officials.

149. The Hungarian Government should pass a law along the lines of the Model National Legislation for the Guidance of Governments in the Enactment of Further Legislation against Racial Discrimination, prepared by the United Nations, in order to combat racist acts in all areas of economic and social life.

150. The Hungarian Ministry of Education should take steps to end the segregation of Gypsy schoolchildren by developing teaching methods that promote equal opportunities for these children and equitable access to education for all.

151. The Hungarian Government should take action in local communities in rural areas in order to promote a better integration of Gypsy communities and put a stop to their expulsion.

Annex

PERSONS MET BY THE SPECIAL RAPPORTEUR DURING THE MISSION

Czech Republic (20-22 September 1999)

Government

Mr. Martin Palous, Vice-Minister of Foreign Affairs

Mr. Pavel Rychetsky, Deputy Prime Minister and Chairman of the Legislative Council of the Government

Mr. Jaroslav Kopriva, Vice-Minister of the Interior

Mr. Alois Cihlar, Vice-Minister of Justice

Mr. Petr Uhl, Government Commissioner for Human Rights

Mrs. Marie Benesova, Chief State Attorney

Municipalities

Mr. Ladislav Hruska, Mayor of Ústi nad Labem

Mr. Pavel Tosovsky, Mayor of the District of Nestemice

Mr. Milan Simonovsky, Deputy Mayor of Brno

Masaryk University in Brno

Professor Josef Bejcck, Dean, Law Faculty

Professor Vladimir Tyc, Vice-Dean, Law Faculty

Mrs. Marie Sedova, Professor, Department of Foreign Languages

Professor Radoslava Sopovova, Refugee Law Project Coordinator

United Nations

Mr. Andreas Nicklish, Director, United Nations Information Centre

Non-governmental organizations

Mr. Markus Pape, European Roma Rights Centre

Ms. Margita Lakata Sova, Roma adviser of Prague's third district, Representative of the Vlax (Vlaxiko) Roma

Mr. Duna Chrudim, regional representative of the Roma in East Bohemia

Mr. Ondrej Gina, Chairman, Roma National Congress in the Czech Republic

Mr. Cenek Ruyicka, Chairman, Committee for the Compensation of the Roma Holocaust

Ladislav Bily, President, Roma Regional Council

Romania (23-26 September 1999)

Government

Mr. Péter Eckstein-Kovacs, Minister for National Minorities, Prime Minister's Office

Mr. Jósef Kotó, Secretary of State, Ministry of Education

Mr. Cristian Diaconescu, Director of Legal and Consular Affairs, Ministry of Foreign Affairs

Mr. Martian Dan, President, Parliamentary Commission on Human Rights, Religious Denominations and National Minority Groups

General Lazar Carjan, Chief, General Police Inspectorate, Criminal Police Department, Ministry of the Interior

Mr. Vasile-Gabriel Nita, Director, Police Research Institute on Delinquency and Prevention

Mr. Vasile Ionescu, Councillor for the Roma Minority

Mrs. Norica Nicolai, Secretary of State, Ministry of Labour and Social Protection

Mrs. Adelina Lozeanu, Director of the Department of Relations with Civil Society and International Organizations, Department for the Protection of National Minorities

Mrs. Romanita Vranceanu, Deputy General Secretary, Ministry of Justice

Mrs. Dakmara Georgescu, Councillor, General Department of Legislation, Ministry of Justice

Ms. Dakmara Georgescu, Department for the Protection of National Minorities, Councillor of the Minister of Education

Mr. Dan Oprescu, Chief, National Office for Roma, Department for National Minorities

Ms. Liliana Preuteasa, General Director, Ministry of Education

National institutions for the protection of human rights

Mr. Mircea Moldovan, Deputy Ombudsman, Office of the Ombudsman

Mrs. Ruxandra Sabareanu, Deputy Ombudsman, Office of the Ombudsman

United Nations

Mr. Temple, Resident Representative, United Nations Development Programme

Mr. Ushiro Tsuchida, Representative, Office of the United Nations High Commissioner for Refugees

Non-governmental and community organizations

Mr. Florin Cioaba, "King of All Roma"

Mrs. Michaela Gheorghe and Mr. Costel Bercus, Roma Centre for Studies and Social Action (Romani CRISS)

Mr. Istvan Haller, Coordinator of the Office for Human Rights, Liga Pro Europa

Mrs. Irina Moroianu Zlatescu, Director, Human Rights Institute, Bucharest

Hungary (27-30 September 1999)

Government

Mr. Gyula K. Szelei, Director-General for International Organizations, Ministry of Foreign Affairs

Mrs. Klára Breuer, Chief, Department of Human Rights and Minorities Legislation, Ministry of Foreign Affairs

Mr. Toso Doncsev, President, National and Ethnic Minorities Office

Dr. András Holló, Vice-President, Hungarian Constitutional Court

Mr. Laszlo Gy. Toth, Senior Adviser to the Prime Minister

Mr. Tamas Ban, Director-General, Ministry of Justice

Mr. Zsolt Jékely, Director-General, Ministry of Cultural Heritage

Mr. Itsván Vilmos Kovacs, Director-General, Ministry of Education

Mr. Itsván Dobo, Director, Office of Refugee and Migration Affairs

Mr. Béla Pokol, Member of Parliament, Chairperson of the Constitutional Committee of the National Assembly

Mrs. Kosa Magda Kosacs, Member of Parliament, Chairperson of the Committee of the National

Assembly for Human Rights, Minority Rights and Religious Affairs

National institutions for the protection of human rights

Mr. Flórian Farkas, President, National Gypsy Minority Municipalities

Mr. László Majtényl, Parliamentary Commissioner for Data Protection

Dr. Péter Polt, Deputy Ombudsman

Mr. Jeno Kaltenbach, Parliamentary Commissioner for the Rights of National and Ethnic Minorities

United Nations

Mr. Lorenzo Pascuali, Deputy Representative, United Nations High Commissioner for Refugees

Non-governmental organizations

Ms. Aladar Horveth, President, Roma Civil Rights Foundation

Ms. Dimitrina Petrova, Executive Director, European Roma Rights Centre

Ms. Veronika Szente, Legal Advocacy Coordinator, European Roma Rights Centre

Mr. Martin Ill, Director, Martin Luther King Centre for the Defence of Human Rights

Mr. Ferenc Koszeg, Director, Hungarian Helsinki Committee

Mr. Jenö Zsigó, President, Roma Parliament, Hungary

Mr. Peter Tordai, President, Federation of Jewish Communities in Hungary

Mr. Imre Furmann, President, Legal Defence Bureau for National and Ethnic Minorities

Mr. Miklos Vásárhelyi, President, Soros Foundation, Hungary

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Fifty-sixth session
Item 6 of the provisional agenda

RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Comments of the International Labour Office

1. The International Labour Office has continued during the last year its work for the elimination of discrimination in employment and occupation on a number of grounds, including those of race, colour and national origin. This is based on the ILO Constitution as well as on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and other ILO standards and instruments. The following recent information can be provided to supplement that submitted to earlier sessions of the Commission.

2. Ratification and application of Convention No. 111. This instrument is considered one of the eight fundamental Conventions of the International Labour Organization. As such, it has been among the targets of the ratification campaign instituted by the Director-General in 1995, following the World Summit for Social Development, and a number of new ratifications have been received pursuant to that campaign. Convention No. 111 had been ratified by 140 countries as of the beginning of 2000, an increase of 9 over the last year, and other ratifications are expected shortly.

3. The ILO has also continued its supervisory activities related to this Convention, as with all the others for which it is responsible. A number of reports from ratifying countries were examined by the ILO Committee of Experts on the Application of Conventions and Recommendations in 1999, and the comments it has made are contained in its annual report published in March 2000. Many of these comments concerned discrimination on the basis of race and/or national origin.

4. The International Labour Office continues also to provide technical assistance and advisory services to member States which wish to ratify this Convention or to apply it more fully. It has, for instance, provided advice during the last year, in the form of national seminars, to Brazil, China and Estonia, among others, and in the coming months will do so in a subregional seminar in East Africa as well as in other countries. A technical cooperation project to establish an affirmative action policy and implementing mechanism, covering race among other criteria, has been completed in Namibia in recent months, and other such activities are under way.

5. The ILO Declaration of Fundamental Rights and Principles at Work and its Follow-up. In June 1998, the International Labour Conference adopted the Declaration, which recognizes an obligation on the part of member States, "arising from the very fact of their membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles containing the fundamental rights which are the subject of" the fundamental Conventions adopted by the ILO - including Convention No. 111. One of the four principles concerned is "the elimination of discrimination in respect of employment and occupation", which covers grounds including race. The Declaration recognizes a corresponding obligation on the part of the ILO to assist Members in doing so.

6. The measures for the follow-up to the Declaration are now being implemented, and they include two main components. Annual reports are required to be submitted by member States of the ILO on the principles and rights covered by any of the Conventions not yet ratified, and these will be examined annually by the Governing Body for the first time at its March 2000 session. This examination will include reports this year from the 34 ILO member States which have not yet ratified Convention No. 111.

7. The second part of the follow-up is that the Director-General will prepare a global report each year on one of the four areas covered by the Declaration, taking each in turn, which will be discussed at the annual International Labour Conference. The discussion of the global report will be followed up by the Governing Body in order to draw conclusions concerning the priorities and plans of action for technical cooperation to be implemented for the following four-year period. Thus, a global report on discrimination - including racial discrimination - will be discussed in the Conference in 2003.

8. Migrant workers. Special attention is given in the discussions in the Commission on Human Rights on this subject to the situation of migrant workers and of discrimination against them. ILO has a considerable programme of activities for these workers, and has been taking part in the deliberations in the United Nations on this subject. The ILO Committee of Experts on the Application of Conventions and Recommendations concluded a general survey under article 19 of its Constitution on migrant workers (published in March 1999 and discussed in the International Labour Conference in June 1999), partly in order to review the ILO Conventions on this subject. This survey recommended that the ILO conventions on this subject be revised, in the light of the low number of ratifications of the ILO instruments and of the United Nations Convention on the same subject. The Governing Body will decide in March 2000 whether to include on the agenda of the International Labour Conference in 2002 a general discussion on the subject of migrant workers, including the possibility of revising the ILO instruments.

9. The ILO is also planning meetings on this subject which are relevant to the concerns of the Commission relating to racial discrimination. From 8 to 11 March 2000 an interregional seminar on "Achieving equality for migrant and minority workers", covering 14 countries in Europe and North America, will be held in Geneva. A regional meeting will also be organized in Asia on good practices as concerns migrant workers, during the first half of 2000. These will be supplemented by other events in the course of the 2000-2001 biennium.

10. Indigenous and tribal peoples. The ILO is responsible for the only two international conventions relating directly to these peoples, the Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the earlier Convention No. 107. Much of the supervisory work carried out by ILO on them relates to the effects of racial discrimination, or exclusion from the same opportunities for development as experienced by the rest of the national population. ILO's work in this area, taking Convention No. 169 as a basis, is to provide equality of opportunity and treatment in all spheres of life, while not sacrificing the ability of these peoples to retain their own ways of life, cultures, etc.

11. It is worth noting that a number of representations have been filed in recent years on the application of Convention No. 169, for the first time. Representations are forms of complaint provided for in the ILO Constitution for allegations that ratified Conventions are not being fulfilled. While it is difficult to characterize the problems raised in these representations on too general a basis, they tend to indicate a lack of effective involvement of these peoples in decisions taken at the national level which affect them, in relation particularly to land rights and development issues.

12. In addition to its supervisory work, ILO carries out a good deal of technical assistance for the benefit of indigenous and tribal peoples around the world. Much of this assistance is carried out as a form of regular budget technical cooperation, and much is financed by contributions from the Danish International Development Agency (DANIDA) for two projects. One concerns cooperative forms of economic organization, and the other covers the promotion of ILO Convention No. 169. Traditionally, most ILO work on this subject has been carried out in Latin America, but in recent years it has expended into both Africa and Asia.

13. World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. As indicated earlier, ILO looks forward to working with the Office of the High Commissioner for Human Rights to prepare this conference. The objectives proclaimed for it are directly in line with those of ILO, and ILO's activities in this area are complementary to those of the United Nations.